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AB-2077 Hypodermic needles and syringes. (2019-2020)

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Assembly Bill No. 2077

CHAPTER 274

An act to amend Section 4145.5 of, and to repeal Sections 4142 and 4326 of, the Business and Professions Code, and to amend Section 11364 of, and to repeal Section 121285 of, the Health and Safety Code, relating to healing arts.

[Approved by Governor September 29, 2020. Filed with Secretary of State September 29, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2077, Ting. Hypodermic needles and syringes.

Existing law prohibits, except as specified, the sale of a hypodermic needle or syringe at retail except upon the prescription of a physician, dentist, veterinarian, podiatrist, or naturopathic doctor.

This bill would repeal that provision.

Existing law, until January 1, 2021, authorizes a physician or pharmacist to, without a prescription or permit, furnish hypodermic needles and syringes for human use to a person 18 years of age or older, and authorizes a person 18 years of age or older to, without a prescription or license, obtain hypodermic needles and syringes solely for personal use from a physician or pharmacist, as a public health measure, as specified.

This bill would extend this authority until January 1, 2026, and would make other conforming changes.

Existing law makes it a misdemeanor for a person to obtain a hypodermic needle or hypodermic syringe by a false or fraudulent representation or design or by a forged or fictitious name. Existing law also makes it a misdemeanor for a person who has obtained a hypodermic needle or hypodermic syringe from any person to whom a permit has been issued to use, or permit or cause, directly or indirectly, the hypodermic needle or hypodermic syringe to be used for any purpose other than that for which it was obtained.

This bill would repeal those provisions and make other conforming changes.

Existing law establishes the Disease Prevention Demonstration Project, a collaboration between pharmacies and local and state health officials for the purpose of evaluating the long-term desirability of allowing licensed pharmacists to furnish or sell nonprescription hypodermic needles or hypodermic syringes to prevent the spread of bloodborne pathogens.

This bill would repeal those provisions.

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

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

SECTION 1. Section 4142 of the Business and Professions Code is repealed.

SEC. 2. Section 4145.5 of the Business and Professions Code is amended to read:

4145.5. (a) Notwithstanding any other provision of law, a pharmacist or physician may, without a prescription or a permit, furnish hypodermic needles and syringes for human use, and a person may, without a prescription or license, obtain hypodermic needles and syringes from a pharmacist or physician for human use, if the furnisher has previously been provided a prescription or other proof of a legitimate medical need requiring a hypodermic needle or syringe to administer a medicine or treatment.

(b) Notwithstanding any other provision of law, and until January 1, 2026, as a public health measure intended to prevent the transmission of HIV, viral hepatitis, and other bloodborne diseases among persons who use syringes and hypodermic needles, and to prevent subsequent infection of sexual partners, newborn children, or other persons, a physician or pharmacist may, without a prescription or a permit, furnish hypodermic needles and syringes for human use to a person 18 years of age or older, and a person 18 years of age or older may, without a prescription or license, obtain hypodermic needles and syringes solely for personal use from a physician or pharmacist.

(c) Notwithstanding any other provision of law, a pharmacist, veterinarian, or person licensed pursuant to Section 4141 may, without a prescription or license, furnish hypodermic needles and syringes for use on animals, and a person may, without a prescription or license, obtain hypodermic needles and syringes from a pharmacist, veterinarian, or person licensed pursuant to Section 4141 for use on animals.

(d) A pharmacy that furnishes nonprescription hypodermic needles and syringes shall store hypodermic needles and syringes in a manner that ensures that they are available only to authorized personnel, and are not accessible to other persons.

(e) In order to provide for the safe disposal of hypodermic needles and syringes, a pharmacy or hypodermic needle and syringe exchange program that furnishes nonprescription hypodermic needles and syringes shall counsel consumers on safe disposal and provide consumers with one or more of the following disposal options:

(1) It shall establish an onsite, safe, hypodermic needle and syringe collection and disposal program that meets applicable state and federal standards for collection and disposal of medical sharps waste.

(2) It shall furnish, or make available, mail-back sharps containers authorized by the United States Postal Service that meet applicable state and federal requirements for the transport of medical sharps waste, and shall provide tracking forms to verify destruction at a certified disposal facility.

(3) It shall furnish, or make available, a sharps container that meets applicable state and federal standards for collection and disposal of medical sharps waste.

(f) Until January 1, 2026, a pharmacy that furnishes nonprescription syringes shall provide written information or verbal counseling to consumers at the time of furnishing or sale of nonprescription hypodermic needles or syringes on how to do the following:

(1) Access drug treatment.

(2) Access testing and treatment for HIV and hepatitis C.

(3) Safely dispose of sharps waste.

SEC. 3. Section 4326 of the Business and Professions Code is repealed.

SEC. 4. Section 11364 of the Health and Safety Code is amended to read:

11364. (a) It is unlawful to possess an opium pipe or any device, contrivance, instrument, or paraphernalia used for unlawfully injecting or smoking (1) a controlled substance specified in subdivision (b), (c), or (e) or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (2) of subdivision (d) of Section 11055, or (2) a controlled substance that is a narcotic drug classified in Schedule III, IV, or V.

(b) This section shall not apply to hypodermic needles or syringes that have been containerized for safe disposal in a container that meets state and federal standards for disposal of sharps waste.

(c) Until January 1, 2026, as a public health measure intended to prevent the transmission of HIV, viral hepatitis, and other bloodborne diseases among persons who use syringes and hypodermic needles, and to prevent subsequent infection of sexual

partners, newborn children, or other persons, this section shall not apply to the possession solely for personal use of hypodermic needles or syringes.

SEC. 5. Section 121285 of the Health and Safety Code is repealed.