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Fixing the Emergency Refill Trap: What California's AB 1587 Means for Pharmacies

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Executive Summary

On July 13, 2026, Governor Newsom signed Assembly Bill 1587 (AB 1587) into law as Chapter 69, Statutes of 2026. As enacted, AB 1587 amends Business and Professions Code section 4064 (Bus. & Prof. Code § 4064)—California's emergency refill statute—by requiring pharmacist notification to the prescriber ***only when a prescriber can be identified.*** The amendment becomes effective **January 1, 2027.**

Although the statutory amendment is narrow—notably declining to adopt the introduced version's proposed new authority to furnish up to a 30-day supply for life-threatening conditions—its practical implications are broader. **AB 1587 removes a longstanding compliance obstacle for pharmacists while leaving unresolved issues** related to reimbursement, claims adjudication, PBM audit, Medicare Part D, and regulatory enforcement.

This alert explains the amendment, highlights its operational effects, and identifies issues that may require future Board guidance or legislative action.

Background: Prescription Drug Emergency Refills

Bus. & Prof. Code § 4064 has long permitted a pharmacist to refill a prescription for a dangerous drug or device (as defined in Bus. & Prof. Code §§ 4022, 4023 without the prescriber's authorization when two conditions are met:

1. the prescriber is unavailable to authorize the refill, and
2. in the pharmacist's professional judgment, failure to refill the prescription might interrupt the patient's ongoing care and have a significant adverse effect on the patient's wellbeing.

However, the pharmacist must inform both the patient and the prescriber that the prescription was refilled pursuant to this section, must first have made every reasonable effort to contact the prescriber, and must maintain an adequate record of a patient's qualification for this exception. the. Existing law also requires that the pharmacist inform the patient that authorization from the prescriber is required before further refills can be dispensed.

Unidentified Prescriber Compliance Traps

Prior to AB 1587, Bus. & Prof. Code § 4064 created a severe compliance trap in completely unidentified-prescriber scenarios (such as when a prescriber has retired, relocated, or died, a practice has closed, or dispensing records are incomplete).

Because the law required notice to a prescriber within a reasonable period, pharmacists faced an impossible legal obligation: they were mandated to notify a prescriber who could not be found despite diligent search efforts.

Controlled Substance Compliance

With regard to controlled substances, under Health and Safety Code section 11201, a pharmacist may refill a prescription for a Schedule III, IV, or V controlled substance without prior authorization if the prescriber is unavailable and the pharmacist has made every reasonable effort to contact them.

To proceed, the pharmacist must determine, in their professional judgment, that failing to provide the refill would create an immediate hazard to the patient's health and welfare or cause intense suffering. The refill is strictly limited to the amount necessary to sustain the patient until the prescriber can be reached, and the pharmacist is required to maintain specific records of the emergency refill while promptly notifying both the patient and the prescriber.

What AB 1587 Does

The AB 1587 amendment is narrow in scope but significant in operational impact. AB 1587 amends subdivision (c) of Bus. & Prof. Code § 4064 to read:

> "The pharmacist shall inform the prescriber within a reasonable period of time of any refills dispensed pursuant to this section*, if a prescriber is identified.*"

The amendment accomplishes two key objectives:

1. First, it relieves pharmacists of a notification duty that could not be performed when no prescriber can be located or identified.
2. Second, it provides statutory support for the argument that the Bus. & Prof. Code § 4064 refill authority extends to unidentified-prescriber scenarios, although Board of Pharmacy guidance or judicial interpretation could adopt a narrower limitation.

Notably, while earlier iterations of the bill proposed creating a new, separate authority to furnish up to a 30-day supply for life-threatening conditions, the Legislature ultimately rejected those broader structural additions. Instead, the final enacted version of AB 1587 remains strictly confined to amending the notification standard of Bus. & Prof. Code § 4064.

Consequently, refill quantity determinations are left entirely to the pharmacist's professional judgment under existing emergency criteria (i.e., the quantity necessary to maintain the patient until a prescriber can be contacted), which remains an area of audit and liability exposure that should be addressed by pharmacy policies and procedures.

Implications for Pharmacies

AB 1587 compliance efforts should shift from satisfying an impossible notification obligation toward documenting the pharmacist's clinical judgment and reasonable efforts to identify the prescriber. Before the **January 1, 2027,** effective date, pharmacies should update their emergency-refill policies and procedures to include a process to document a record of the diligence performed before concluding that no prescriber can be identified.

The statute does not define "identified," nor does it specify what diligence is required before concluding that a prescriber cannot be identified. Because the legal standard hinges on reasonable efforts rather than an automatic right to dispense, a defensible approach is for the pharmacist to make and contemporaneously document reasonable, good-faith efforts to identify the prescriber, including efforts tailored to the circumstances, which may include:

- **Patient Profile and Record Audit:** Reviewing the original prescription record and patient profile;
- **CURES Database Search:** Consulting CURES (for controlled substances, where applicable);
- **Directory and Online Verification:** Checking readily available practice contact information (e.g., directory listings, practice websites); and
- **Outreach Documentation:** Where the prescriber is known but unreachable, documenting the unsuccessful outreach attempts.

Board inspectors and payor auditors will likely distinguish between "we could not identify the prescriber" and "we did not try." Pharmacies must ensure staff understand that failing to document these diligence steps leaves emergency refills vulnerable to immediate regulatory scrutiny and financial recoupment.

The documentation best practice is to adopt a standardized form or electronic record template that captures:

- **Professional Judgment:** The professional-judgment determination (why the refill was necessary);
- **Diligence Efforts:** The efforts made to identify the prescriber;

- **Patient Communication:** The patient notification;
- **Prescriber Notification Log:** The date and time of any notification to the prescriber (if identified); and
- **Quantity and Clinical Rationale:** The quantity dispensed and rationale for that quantity.

Equally important is what the law does *not* do:

- AB 1587 creates no new dispensing authority and no pharmacist or pharmacy immunity.
- The "dangerous drug or dangerous device" scope, the professional-judgment standard, and the absence of any statutory quantity limit are all unchanged.

Pharmacies should confirm that their professional liability policy provides coverage for emergency refills dispensed in unidentified-prescriber situations, as AB 1587 provides no safe harbor or immunity from malpractice claims arising from continued therapy without prescriber oversight.

For out-of-state pharmacies filling prescriptions for California patients (e.g., mail-order), the same compliance obligations apply when dispensing into California, and the same billing challenges will arise with California payors.

Potential Board of Pharmacy Enforcement

Historically, the California State Board of Pharmacy has disciplined pharmacies and pharmacists for failing to comply with Business and Professions Code section 4064 by citing multiple statutory violations. These enforcement actions commonly include violations for:

- possessing a controlled substance without a prescription under Section 4060,
- furnishing a dangerous drug without a prescription under Section 4059,
- making unauthorized refills under Section 4063, and
- failing to adhere to emergency refill requirements under Section 4064.

Additionally, authorities frequently invoke Section 4301 for unprofessional conduct, specifically targeting acts involving moral turpitude or dishonesty under subdivision (f), violations of controlled substance statutes under subdivision (j), and the unlawful furnishing of dangerous drugs in violation of pharmacy law under subdivision (o).

Implications for Payors and PBMs: The Claims-Adjudication Gap

The more consequential friction will arise at the claims level. Pharmacy claims across commercial, Medicare Part D, and Medi-Cal lines are commonly adjudicated with a prescriber identifier (such as an NPI) as a required field, and a refill dispensed under Bus. & Prof. Code § 4064 with no identifiable prescriber may not fit neatly within that framework. Thus, the pharmacy may have state-law authority to dispense but still lacks a clear billing pathway.

Consider the following hypothetical scenario: A patient presents a three-year-old prescription from a retired physician. The pharmacy cannot locate the physician. State law permits the refill, but the claim requires a prescriber NPI. Submitting under the retired physician's NPI may raise severe contract, audit, and fraud compliance concerns, while leaving the field blank or routing placeholder data typically results in immediate electronic rejection by the PBM or health plan. AB 1587 provides no solution to this claims-adjudication dead zone.

PBM provider manuals and network agreements typically impose prescriber-verification and valid-prescription representations that do not contemplate a no-identifiable-prescriber scenario, thus creating audit and recoupment exposure for pharmacies and adjudication-policy questions for plans. **Critically, nothing in AB 1587 obligates any health plan, Medi-Cal managed care plan, or PBM to pay for an emergency refill dispensed without a traditional prescriber authorization;** coverage and reimbursement remain entirely subject to individual payor policy and network rules.

Pharmacies should review existing PBM network agreements for prescriber-verification warranties and consider requesting contract amendments or written guidance addressing the unidentified-prescriber scenario before the effective date.

Payors, health plans, and PBMs operating in California should establish, test, and communicate adjudication solutions before the effective date. At a minimum, they should address:

- **Submission Conventions:** Whether a specific submission convention will be recognized (e.g., standardized emergency override clarification codes, or a designated fallback NPI/submission process);
- **Audit Protocols and Documentation:** How audit protocols will treat emergency-refill documentation in lieu of a traditional prescriber authorization; and
- **Utilization Management Waivers:** Whether prior authorization or other utilization management requirements will be waived for emergency refills.

Open Issues

Several significant gaps remain and will likely require Board of Pharmacy guidance, payor policy development, or future legislation:

Quantity Limitation

- None. AB 1587 does not establish a specific quantity cap. Existing law limits refills to quantities necessary to maintain the patient until a prescriber can be contacted, but sets no numeric ceiling, leaving the determination to the pharmacist's professional judgment.
- Payors may challenge whether dispensing larger or maintenance quantities without a statutory ceiling constitutes a true emergency.

Undefined Terms

- "Identified," "unavailable," and "reasonable period of time" are all undefined.
- The diligence expected before concluding that no prescriber can be identified is the most audit-sensitive ambiguity.

Interaction with Other Emergency Authorities

- The relationship between Bus. & Prof. Code § 4064, Bus. & Prof. Code § 4062 (emergency furnishing), and Bus. & Prof. Code § 4064.5 (pharmacist-furnished self-administered hormonal contraceptives) is unaddressed.
- Pharmacists should be aware that these provisions operate under distinct conditions and do not necessarily share the same prescriber-identification framework.

Controlled Substances

- DEA regulations under 21 C.F.R. § 1306.04 and 21 U.S.C. § 829 require a valid prescription issued by an authorized prescriber, and federal law does not recognize an unidentified-prescriber scenario.
- Controlled-substance emergency refills, therefore, remain a distinct risk category.

Billing

- No statutory solution to the claims-adjudication problem.

Effective Date and Recommended Next Steps

AB 1587 takes effect January 1, 2027. Prior to the effective date, pharmacies, payors, and PBMs should take the following steps.

Pharmacies Should:

- **Policy and Procedure Refresh:** Update emergency-refill policies and procedures to reflect the diligence and documentation standards described above;
- **Staff Training:** Train staff on the new documentation standard and on the operational distinction between "unavailable" and "unidentified;"
- **Documentation Templates:** Adopt a standardized emergency-refill documentation template capturing the elements listed above, including quantity rationale;
- **Audit-Readiness Checklists:** Align internal audit-readiness checklists with PBM expectations to guard against common recoupment triggers; and
- **Controlled Substance Protocols:** Coordinate with legal counsel on controlled substance protocols.
- **PBM Network Agreement Review:** Review existing PBM network agreements for prescriber-verification warranties that may conflict with unidentified-prescriber refills and seek amendments or written guidance where necessary; and
- **Professional Liability Review:** Confirm with professional liability carriers that coverage extends to emergency refills dispensed in unidentified-prescriber scenarios.

Payors and PBMs Should:

- **Claims-Adjudication Logic:** Resolve adjudication "dead zones" for unidentified-prescriber refill scenarios;
- **Provider Manuals and Audit Protocols:** Define in provider manuals and audit protocols how emergency-refill documentation will be evaluated; and
- **Submission Conventions:** Adopt a submission convention for emergency refills.

We Are Here to Help

If you have questions regarding Assembly Bill 1587, as well as other California Board of Pharmacy requirements or healthcare transactions, **please contact Michael Dowell or your regular Hinshaw legal counsel.**

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