

Introduced by Senator Denham

February 17, 2004

An act to amend Sections 11165 and 11173 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 1308, as introduced, Denham. Controlled substances: CURES.

Existing law provides for the electronic monitoring of the prescribing and dispensing of Schedule II and Schedule III controlled substances by all practitioners authorized to prescribe or dispense these controlled substances. Existing law also prohibits anyone from obtaining a controlled substance by fraud, deceit, misrepresentation, or subterfuge, or by the concealment of a material fact.

This bill would make technical, nonsubstantive changes to these provisions.

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 11165 of the Health and Safety Code is
2 amended to read:
3 11165. (a) To assist law enforcement and regulatory agencies
4 in their efforts to control the diversion and resultant abuse of
5 Schedule II and Schedule III controlled substances, and for
6 statistical analysis, education, and research, the Department of
7 Justice shall, contingent upon the availability of adequate funds
8 from the Contingent Fund of the Medical Board of California, the
9 Pharmacy Board Contingent Fund, the State Dentistry Fund, the



1 Board of Registered Nursing Fund, and the Osteopathic Medical
2 Board of California Contingent Fund, maintain the Controlled
3 Substance Utilization Review and Evaluation System (CURES)
4 for the electronic monitoring of the prescribing and dispensing of
5 Schedule II and Schedule III controlled substances by all
6 practitioners authorized to prescribe or dispense these controlled
7 substances.

8 (b) (1) The reporting of Schedule III controlled substance
9 prescriptions to CURES shall be contingent upon the availability
10 of adequate funds from the Department of Justice. ~~The~~

11 (2) ~~The~~ Department of Justice may seek and use grant funds to
12 pay the costs incurred from the reporting of controlled substance
13 prescriptions to CURES. ~~Funds~~

14 (3) ~~Funds~~ shall not be appropriated from the Contingent Fund
15 of the Medical Board of California, the Pharmacy Board
16 Contingent Fund, the State Dentistry Fund, the Board of
17 Registered Nursing Fund, or the Osteopathic Medical Board of
18 California Contingent Fund to pay the costs of reporting Schedule
19 III controlled substance prescriptions to CURES.

20 (c) (1) CURES shall operate under existing provisions of law
21 to safeguard the privacy and confidentiality of patients. ~~Data~~

22 (2) ~~Data~~ obtained from CURES shall only be provided to
23 appropriate state, local, and federal persons or public agencies for
24 disciplinary, civil, or criminal purposes and to other agencies or
25 entities, as determined by the Department of Justice, for the
26 purpose of educating practitioners and others in lieu of
27 disciplinary, civil, or criminal actions. ~~Data~~

28 (3) ~~Data~~ may be provided to public or private entities, as
29 approved by the Department of Justice, for educational, peer
30 review, statistical, or research purposes, provided that patient
31 information, including any information that may identify the
32 patient, is not compromised. ~~Further, data~~

33 (4) ~~Data~~ disclosed to any individual or agency as described in
34 this subdivision shall not be disclosed, sold, or transferred to any
35 third party.

36 (d) For each prescription for a Schedule II or Schedule III
37 controlled substance, the dispensing pharmacy shall provide the
38 following information to the Department of Justice in a frequency
39 and format specified by the Department of Justice:

40 (1) Full name, address, gender, and date of birth of the patient.



1 (2) The prescriber's category of licensure and license number;
2 federal controlled substance registration number; and the state
3 medical license number of any prescriber using the federal
4 controlled substance registration number of a government-exempt
5 facility.

6 (3) Pharmacy prescription number, license number, and federal
7 controlled substance registration number.

8 (4) NDC (National Drug Code) number of the controlled
9 substance dispensed.

10 (5) Quantity of the controlled substance dispensed.

11 (6) ICD-9 (diagnosis code), if available.

12 (7) Date of issue of the prescription.

13 (8) Date of dispensing of the prescription.

14 (e) This section shall become operative on January 1, 2005.

15 SEC. 2. Section 11173 of the Health and Safety Code is
16 amended to read:

17 11173. (a) No person shall obtain or attempt to obtain
18 controlled substances, or procure or attempt to procure the
19 administration of or prescription for controlled substances, ~~(1) by~~
20 ~~fraud,~~ *by any of the following means:*

21 *(1) Fraud, deceit, misrepresentation, or subterfuge; or (2) by*
22 ~~the concealment.~~

23 *(2) Concealment of a material fact.*

24 (b) No person shall make a false statement in any prescription,
25 order, report, or record, required by this division.

26 (c) No person shall, for the purpose of obtaining controlled
27 substances, falsely assume the title of, or represent himself *or*
28 *herself* to be, a manufacturer, wholesaler, pharmacist, physician,
29 dentist, veterinarian, registered nurse, physician's assistant, or
30 other authorized person.

31 (d) No person shall affix any false or forged label to a package
32 or receptacle containing controlled substances.

