

AMENDED IN SENATE MARCH 25, 2014

**SENATE BILL**

**No. 1258**

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**Introduced by Senator DeSaulnier**

February 21, 2014

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An act to amend ~~Section 11165~~ Sections 4071 and 4072 of the Business and Professions Code, and to amend Sections 11151, 11158, 11164, 11164.1, 11164.5, 11165, 11165.1, 11165.5, 11166, and 11200 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 1258, as amended, DeSaulnier. Controlled substances: prescriptions: reporting.

*(1) Existing law classifies certain controlled substances into designated schedules. Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances. Existing law requires specified information regarding prescriptions for Schedule II, Schedule III, and Schedule IV controlled substances, including the ultimate user of the prescribed controlled substance and the National Drug Control number of the controlled substance dispensed, to be reported to the Department of Justice.*

*This bill would additionally require the prescribing and dispensing of Schedule V controlled substances to be monitored in CURES and would require specified information regarding prescriptions for Schedule V controlled substances to be reported to the Department of Justice.*

(2) Existing law requires licensed health care practitioners, as specified, and pharmacists to apply to the Department of Justice to obtain approval to access information contained in the CURES Prescription Drug Monitoring System (PDMP) regarding the controlled substance history of a patient under his or her care. Existing law requires the Department of Justice, upon approval of that application, to provide to that health care practitioner or pharmacist the history of controlled substances dispensed to an individual under his or her care.

This bill would also authorize an individual designated to investigate an applicant for, or a holder of, a professional license to apply to the Department of Justice to obtain approval to access information contained in the CURES PDMP regarding the controlled substance history of an applicant or a licensee for the purpose of investigating the alleged substance abuse of an applicant or a licensee. The bill would, upon approval of that application, require the department to provide to that individual the history of controlled substances dispensed to the applicant or licensee.

(3) Existing law generally requires, subject to specified exceptions, that a prescription for Schedule II, Schedule III, Schedule IV, or Schedule V controlled substances be made on a certain controlled substance prescription form and meet several requirements, including that the prescription be signed and dated by the prescriber in ink. Existing law authorizes, as an exception to that requirement, a Schedule III, Schedule IV, or Schedule V controlled substance to be dispensed upon an oral or electronically transmitted prescription, which must be produced in hard copy form and signed and dated by the pharmacist filling the prescription or another authorized person.

This bill would instead require, subject to specified exceptions, that a prescription for a controlled substance be made by an electronically transmitted prescription that complies with regulations promulgated by the Drug Enforcement Agency, which, except as specified, must be produced in hard copy form and signed and dated by the pharmacist filling the prescription or another authorized person.

(4) Existing law prohibits a prescription for a Schedule II controlled substance from being refilled and prohibits a prescription for a Schedule III or IV controlled substance from being refilled more than 5 times and in an amount, for all refills of that prescription taken together, exceeding a 120-day supply.

This bill would prohibit, subject to specified exceptions, a person from prescribing a controlled substance, or filling, compounding, or

*dispensing a prescription for a controlled substance, in a quantity exceeding a 30 day supply. The bill would also prohibit a person from issuing a prescription for a controlled substance, or from filling, compounding, or dispensing a prescription for a controlled substance, for an ultimate user for whom a previous prescription for a controlled substance was issued within the immediately preceding 30 days until the ultimate user has exhausted all but a 7-day supply of the controlled substance filled, compounded, or dispensed from the previous prescription.*

~~Existing law classifies certain controlled substances into designated schedules. Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances. Existing law authorizes the Department of Justice to seek and use grant funds to pay the costs incurred by the operation and maintenance of CURES and requires that the operation of CURES comply with all applicable federal and state privacy and security laws and regulations.~~

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

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

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

- 1     SECTION 1. Section 4071 of the Business and Professions
- 2     Code is amended to read:
- 3     4071. Notwithstanding any other provision of law, a prescriber
- 4     may authorize his or her agent on his or her behalf to orally or
- 5     electronically transmit a prescription to the furnisher. The furnisher
- 6     shall make a reasonable effort to determine ~~that~~ *whether* the person
- 7     who transmits the prescription is authorized to do so and shall
- 8     record the name of the authorized agent of the prescriber who
- 9     transmits the order.
- 10    ~~This section shall not apply to orders for Schedule II controlled~~
- 11    ~~substances.~~
- 12    SEC. 2. Section 4072 of the Business and Professions Code is
- 13    amended to read:

1 4072. (a) Notwithstanding any other ~~provision~~ of law, a  
 2 pharmacist, registered nurse, licensed vocational nurse, licensed  
 3 psychiatric technician, or other healing arts licentiate, if so  
 4 authorized by administrative regulation, who is employed by or  
 5 serves as a consultant for a licensed skilled nursing, intermediate  
 6 care, or other health care facility, may orally or electronically  
 7 transmit to the furnisher a prescription lawfully ordered by a person  
 8 authorized to prescribe drugs or devices pursuant to Sections 4040  
 9 and 4070. The furnisher shall take appropriate steps to determine  
 10 ~~that whether~~ the person who transmits the prescription is authorized  
 11 to do so and shall record the name of the person who transmits the  
 12 order. This section ~~shall~~ *does* not apply to *oral* orders for Schedule  
 13 II controlled substances.

14 (b) In enacting this section, the Legislature recognizes and  
 15 affirms the role of the State Department of Public Health in  
 16 regulating drug order processing requirements for licensed health  
 17 care facilities as set forth in Title 22 of the California Code of  
 18 Regulations as they may be amended from time to time.

19 *SEC. 3. Section 11151 of the Health and Safety Code is*  
 20 *amended to read:*

21 11151. A prescription ~~written~~ *issued* by an unlicensed person  
 22 lawfully practicing medicine pursuant to Section 2065 of the  
 23 Business and Professions Code, shall be filled only at a pharmacy  
 24 maintained in the hospital which employs such unlicensed person.

25 *SEC. 4. Section 11158 of the Health and Safety Code is*  
 26 *amended to read:*

27 11158. (a) Except as provided in Section ~~11159~~ *11159*,  
 28 *11159.1, 11159.2, 11167, or 11167.5*, or in subdivision (b) of this  
 29 section, ~~no~~ a controlled substance classified in Schedule II shall  
 30 *not* be dispensed without a prescription meeting the requirements  
 31 of this chapter. Except as provided in Section ~~11159~~ *11159*,  
 32 *11159.1, 11159.2, 11167, or 11167.5*, or when dispensed directly  
 33 to an ultimate user by a practitioner, other than a pharmacist or  
 34 pharmacy, ~~no~~ a controlled substance classified in Schedule III,  
 35 IV, or V ~~may~~ *shall not* be dispensed without a prescription meeting  
 36 the requirements of this chapter.

37 (b) A practitioner specified in Section 11150 may dispense  
 38 directly to an ultimate user a controlled substance classified in  
 39 Schedule II in an amount not to exceed a 72-hour supply for the  
 40 patient in accordance with directions for use given by the

1 dispensing practitioner only ~~where if~~ the patient is not expected to  
2 require any additional amount of the controlled substance beyond  
3 the 72 hours. ~~Practitioners dispensing drugs pursuant to this~~  
4 ~~subdivision shall meet the requirements of subdivision (f) of~~  
5 ~~Section 11164.~~

6 (c) Except as otherwise prohibited or limited by law, a  
7 practitioner specified in Section 11150, may administer controlled  
8 substances in the regular practice of his or her profession.

9 *SEC. 5. Section 11164 of the Health and Safety Code is*  
10 *amended to read:*

11 11164. Except as provided in Section 11158, 11159, 11159.1,  
12 11159.2, 11167, ~~no~~ or 11167.5, a person shall *not* prescribe a  
13 controlled substance, nor shall any person fill, compound, or  
14 dispense a prescription for a controlled substance, unless it  
15 complies with the requirements of this section.

16 (a) ~~Each prescription for a controlled substance classified in~~  
17 ~~Schedule II, III, IV, or V, except as authorized by subdivision (b),~~  
18 ~~shall be made on a controlled substance prescription form as~~  
19 ~~specified in Section 11162.1 and shall meet the following~~  
20 ~~requirements:~~

21 (1) ~~The prescription shall be signed and dated by the prescriber~~  
22 ~~in ink and shall contain the prescriber's address and telephone~~  
23 ~~number; the name of the ultimate user or research subject, or~~  
24 ~~contact information as determined by the Secretary of the United~~  
25 ~~States Department of Health and Human Services; refill~~  
26 ~~information, such as the number of refills ordered and whether the~~  
27 ~~prescription is a first-time request or a refill; and the name,~~  
28 ~~quantity, strength, and directions for use of the controlled substance~~  
29 ~~prescribed.~~

30 (2) ~~The prescription shall also contain the address of the person~~  
31 ~~for whom the controlled substance is prescribed. If the prescriber~~  
32 ~~does not specify this address on the prescription, the pharmacist~~  
33 ~~filling the prescription or an employee acting under the direction~~  
34 ~~of the pharmacist shall write or type the address on the prescription~~  
35 ~~or maintain this information in a readily retrievable form in the~~  
36 ~~pharmacy.~~

37 (b)

38 (a) (1) ~~Notwithstanding paragraph (1) of subdivision (a) of~~  
39 ~~Section 11162.1, any A prescription for a controlled substance~~  
40 ~~classified in Schedule II, III, IV, or V be dispensed upon an oral~~

1 ~~or electronically transmitted prescription;~~ *shall be made by an*  
2 *electronically transmitted prescription that complies with*  
3 *regulations promulgated by the Drug Enforcement Agency, which*  
4 *shall be produced in hard copy form and signed and dated by the*  
5 *pharmacist filling the prescription or by any other person expressly*  
6 *authorized by provisions of the Business and Professions Code.*  
7 *Any person who transmits, maintains, or receives any electronically*  
8 *transmitted prescription shall ensure the security, integrity,*  
9 *authority, and confidentiality of the prescription.*

10 ~~(2) The date of issue of the prescription and all the information~~  
11 ~~required for a written prescription by subdivision (a) shall be~~  
12 ~~included in the written record of the prescription; the pharmacist~~  
13 ~~need not include the address, telephone number, license~~  
14 ~~classification, or federal registry number of the prescriber or the~~  
15 ~~address of the patient on the hard copy, if that information is readily~~  
16 ~~retrievable in the pharmacy.~~

17 *(2) A prescription issued pursuant to this subdivision shall meet*  
18 *the following requirements:*

19 *(A) The prescription shall contain the prescriber's address and*  
20 *telephone number; the name of the ultimate user or research*  
21 *subject, or contact information as determined by the Secretary of*  
22 *the United States Department of Health and Human Services; refill*  
23 *information, such as the number of refills ordered and whether*  
24 *the prescription is a first-time request or a refill; and the name,*  
25 *quantity, strength, and directions for use of the controlled*  
26 *substance prescribed.*

27 *(B) The prescription shall contain the address of the person for*  
28 *whom the controlled substance is prescribed. If the prescriber*  
29 *does not specify this address on the prescription, the pharmacist*  
30 *filling the prescription or an employee acting under the direction*  
31 *of the pharmacist shall include the address on the prescription or*  
32 *maintain this information in a readily retrievable form in the*  
33 *pharmacy.*

34 ~~(3) Pursuant to an authorization of the prescriber, any an agent~~  
35 ~~of the prescriber on behalf of the prescriber may orally or~~  
36 ~~electronically transmit a prescription for a controlled substance~~  
37 ~~classified in Schedule II, III, IV, or V, if in these cases the written~~  
38 ~~record of the prescription required by this subdivision specifies~~  
39 ~~the name of the agent of the prescriber transmitting the prescription.~~

1 (b) (1) A prescription for a controlled substance classified in  
2 Schedule II, III, IV, or V, may be written on a controlled substance  
3 prescription form as specified in Section 11162.1, or for a  
4 controlled substance classified in Schedule III, IV, or V, may be  
5 made orally, if technological failure prevents the electronic  
6 transmission of a prescription pursuant to subdivision (a) or if the  
7 prescription will be filled by a pharmacist located outside of  
8 California, provided that the order contains all information  
9 required by subdivision (a) and, if the prescription is written on  
10 a controlled substance prescription form, is signed and dated by  
11 the prescriber in ink.

12 (2) If a prescriber is permitted to make an oral prescription  
13 pursuant to this section, pursuant to an authorization of the  
14 prescriber, an agent of the prescriber on behalf of the prescriber  
15 may orally transmit a prescription for a controlled substance  
16 classified in Schedule II, III, IV, or V, if the written record of the  
17 prescription specifies the name of the agent of the prescriber  
18 transmitting the prescription.

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

21 (d) Notwithstanding any provision of subdivisions (a) and (b),  
22 prescriptions for a controlled substance classified in Schedule V  
23 may be for more than one person in the same family with the same  
24 medical need.

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

26 SEC. 6. Section 11164.1 of the Health and Safety Code is  
27 amended to read:

28 11164.1. (a) (1) Notwithstanding any other ~~provision of law,~~  
29 a prescription for a controlled substance issued by a prescriber in  
30 another state for delivery to a patient in another state may be  
31 dispensed by a California pharmacy, if the prescription conforms  
32 with the requirements for controlled substance prescriptions in the  
33 state in which the controlled substance was prescribed.

34 (2) All prescriptions for Schedule II, Schedule III, ~~and Schedule~~  
35 ~~IV IV, and Schedule V~~ controlled substances dispensed pursuant  
36 to this subdivision shall be reported by the dispensing pharmacy  
37 to the Department of Justice in the manner prescribed by  
38 subdivision (d) of Section 11165.

39 (b) Pharmacies may dispense prescriptions for Schedule III,  
40 Schedule IV, and Schedule V controlled substances from

1 out-of-state prescribers pursuant to Section 4005 of the Business  
2 and Professions Code and Section 1717 of Title 16 of the California  
3 Code of Regulations.

4 *SEC. 7. Section 11164.5 of the Health and Safety Code is*  
5 *amended to read:*

6 11164.5. (a) ~~Notwithstanding Section 11164, with the approval~~  
7 ~~of the California State Board of Pharmacy and the Department of~~  
8 ~~Justice, a~~ A pharmacy or hospital ~~may~~ shall receive electronic data  
9 transmission prescriptions or computer entry prescriptions or orders  
10 as specified in Section 4071.1 of the Business and Professions  
11 Code, for controlled substances in Schedule II, III, IV, or V ~~if~~  
12 ~~authorized by federal law and~~ in accordance with regulations  
13 promulgated by the Drug Enforcement Administration. ~~The~~  
14 ~~California State Board of Pharmacy shall maintain a list of all~~  
15 ~~requests and approvals granted pursuant to this subdivision.~~

16 (b) ~~Notwithstanding paragraph (1) of subdivision (a) of Section~~  
17 ~~11164, if approved pursuant to subdivision (a),~~ a pharmacy or  
18 hospital receiving an electronic transmission prescription or a  
19 computer entry prescription or order for a controlled substance  
20 classified in Schedule II, III, IV, or V ~~shall~~ is not be required to  
21 reduce that prescription or order to writing or to hard copy form,  
22 if for three years from the last day of dispensing that prescription,  
23 the pharmacy or hospital is able, upon request of the board or the  
24 Department of Justice, to immediately produce a hard copy report  
25 that includes for each date of dispensing of a controlled substance  
26 in Schedules II, III, IV, and V pursuant to the prescription all of  
27 the information described in subparagraphs (A) to (E), inclusive,  
28 of paragraph (1) of subdivision (a) of Section 4040 of the Business  
29 and Professions Code and the name or identifier of the pharmacist  
30 who dispensed the controlled substance.

31 (c) ~~Notwithstanding Section 11164, if~~ *If* only recorded and  
32 stored electronically, on magnetic media, or in any other  
33 computerized form, the pharmacy's or hospital's computer system  
34 shall not permit the received information or the controlled  
35 substance dispensing information required by this section to be  
36 changed, obliterated, destroyed, or disposed of, for the record  
37 maintenance period required by law, once the information has been  
38 received by the pharmacy or the hospital and once the controlled  
39 substance has been dispensed, respectively. Once the controlled  
40 substance has been dispensed, if the previously created record is

1 determined to be incorrect, a correcting addition may be made  
2 only by or with the approval of a pharmacist. After a pharmacist  
3 enters the change or enters his or her approval of the change into  
4 the computer, the resulting record shall include the correcting  
5 addition and the date it was made to the record, the identity of the  
6 person or pharmacist making the correction, and the identity of  
7 the pharmacist approving the correction.

8 (d) Nothing in this section shall be construed to exempt any  
9 pharmacy or hospital dispensing Schedule II controlled substances  
10 pursuant to electronic transmission prescriptions from existing  
11 reporting requirements.

12 ~~SECTION 1.~~

13 *SEC. 8.* Section 11165 of the Health and Safety Code is  
14 amended to read:

15 11165. (a) To assist health care practitioners in their efforts  
16 to ensure appropriate prescribing, ordering, administering,  
17 furnishing, and dispensing of controlled substances, law  
18 enforcement and regulatory agencies in their efforts to control the  
19 diversion and resultant abuse of Schedule II, Schedule III, ~~and~~  
20 ~~Schedule IV~~ *IV, and Schedule V* controlled substances, and for  
21 statistical analysis, education, and research, the Department of  
22 Justice shall, contingent upon the availability of adequate funds  
23 in the CURES Fund, maintain the Controlled Substance Utilization  
24 Review and Evaluation System (CURES) for the electronic  
25 monitoring of, and Internet access to information regarding, the  
26 prescribing and dispensing of Schedule II, Schedule III, ~~and~~  
27 ~~Schedule IV~~ *IV, and Schedule V* controlled substances by all  
28 practitioners authorized to prescribe, order, administer, furnish, or  
29 dispense these controlled substances.

30 (b) The Department of Justice may seek and use grant funds to  
31 pay the costs incurred by the operation and maintenance of  
32 CURES. The department shall annually report to the Legislature  
33 and make available to the public the amount and source of funds  
34 it receives for the support of CURES.

35 (c) (1) The operation of CURES shall comply with all  
36 applicable federal and state privacy and security laws and  
37 regulations.

38 (2) CURES shall operate under existing law to safeguard the  
39 privacy and confidentiality of patients. Data obtained from CURES  
40 shall only be provided to appropriate state, local, and federal public

1 agencies for disciplinary, civil, or criminal purposes and to other  
2 agencies or entities, as determined by the Department of Justice,  
3 for the purpose of educating practitioners and others in lieu of  
4 disciplinary, civil, or criminal actions. Data may be provided to  
5 public or private entities, as approved by the Department of Justice,  
6 for educational, peer review, statistical, or research purposes,  
7 provided that patient information, including any information that  
8 may identify the patient, is not compromised. Further, data  
9 disclosed to an individual or agency as described in this subdivision  
10 shall not be disclosed, sold, or transferred to a third party. The  
11 Department of Justice shall establish policies, procedures, and  
12 regulations regarding the use, access, evaluation, management,  
13 implementation, operation, storage, disclosure, and security of the  
14 information within CURES, consistent with this subdivision.

15 (d) For each prescription for a Schedule II, Schedule III, ~~or~~  
16 ~~Schedule IV~~ *IV, or Schedule V* controlled substance, as defined in  
17 the controlled substances schedules in federal law and regulations,  
18 specifically Sections 1308.12, 1308.13, ~~and~~ 1308.14, *and 1308.15*,  
19 respectively, of Title 21 of the Code of Federal Regulations, the  
20 dispensing pharmacy, clinic, or other dispenser shall report the  
21 following information to the Department of Justice as soon as  
22 reasonably possible, but not more than seven days after the date a  
23 controlled substance is dispensed, in a format specified by the  
24 Department of Justice:

25 (1) Full name, address, and, if available, telephone number of  
26 the ultimate user or research subject, or contact information as  
27 determined by the Secretary of the United States Department of  
28 Health and Human Services, and the gender, and date of birth of  
29 the ultimate user.

30 (2) The prescriber's category of licensure, license number,  
31 national provider identifier (NPI) number, if applicable, the federal  
32 controlled substance registration number, and the state medical  
33 license number of any prescriber using the federal controlled  
34 substance registration number of a government-exempt facility.

35 (3) Pharmacy prescription number, license number, NPI number,  
36 and federal controlled substance registration number.

37 (4) National Drug Code (NDC) number of the controlled  
38 substance dispensed.

39 (5) Quantity of the controlled substance dispensed.

1 (6) International Statistical Classification of Diseases, 9th  
2 revision (ICD-9) or 10th revision (ICD-10) Code, if available.

3 (7) Number of refills ordered.

4 (8) Whether the drug was dispensed as a refill of a prescription  
5 or as a first-time request.

6 (9) Date of origin of the prescription.

7 (10) Date of dispensing of the prescription.

8 (e) The Department of Justice may invite stakeholders to assist,  
9 advise, and make recommendations on the establishment of rules  
10 and regulations necessary to ensure the proper administration and  
11 enforcement of the CURES database. All prescriber and dispenser  
12 invitees shall be licensed by one of the boards or committees  
13 identified in subdivision (d) of Section 208 of the Business and  
14 Professions Code, in active practice in California, and a regular  
15 user of CURES.

16 (f) The Department of Justice shall, prior to upgrading CURES,  
17 consult with prescribers licensed by one of the boards or  
18 committees identified in subdivision (d) of Section 208 of the  
19 Business and Professions Code, one or more of the boards or  
20 committees identified in subdivision (d) of Section 208 of the  
21 Business and Professions Code, and any other stakeholder  
22 identified by the department, for the purpose of identifying  
23 desirable capabilities and upgrades to the CURES Prescription  
24 Drug Monitoring Program (PDMP).

25 (g) The Department of Justice may establish a process to educate  
26 authorized subscribers of the CURES PDMP on how to access and  
27 use the CURES PDMP.

28 *SEC. 9. Section 11165.1 of the Health and Safety Code is*  
29 *amended to read:*

30 11165.1. (a) (1) (A) (i) A health care practitioner authorized  
31 to prescribe, order, administer, furnish, or dispense Schedule II,  
32 Schedule III, ~~or~~ Schedule ~~IV~~ IV, *or Schedule V* controlled  
33 substances pursuant to Section 11150 shall, before January 1, 2016,  
34 or upon receipt of a federal Drug Enforcement Administration  
35 (DEA) registration, whichever occurs later, submit an application  
36 developed by the Department of Justice to obtain approval to access  
37 information online regarding the controlled substance history of  
38 a patient that is stored on the Internet and maintained within the  
39 Department of Justice, and, upon approval, the department shall  
40 release to that practitioner the electronic history of controlled

1 substances dispensed to an individual under his or her care based  
2 on data contained in the CURES Prescription Drug Monitoring  
3 Program (PDMP).

4 (ii) A pharmacist shall, before January 1, 2016, or upon  
5 licensure, whichever occurs later, submit an application developed  
6 by the Department of Justice to obtain approval to access  
7 information online regarding the controlled substance history of  
8 a patient that is stored on the Internet and maintained within the  
9 Department of Justice, and, upon approval, the department shall  
10 release to that pharmacist the electronic history of controlled  
11 substances dispensed to an individual under his or her care based  
12 on data contained in the CURES PDMP.

13 (iii) *An individual designated by a board, bureau, or program*  
14 *within the Department of Consumer Affairs to investigate an*  
15 *applicant for, or a holder of, a professional license may, for the*  
16 *purpose of investigating the alleged substance abuse of an*  
17 *applicant or a licensee, submit an application developed by the*  
18 *Department of Justice to obtain approval to access information*  
19 *online regarding the controlled substance history of an applicant*  
20 *or a licensee that is stored on the Internet and maintained within*  
21 *the Department of Justice, and, upon approval, the department*  
22 *shall release to that individual the electronic history of controlled*  
23 *substances dispensed to the applicant or licensee based on data*  
24 *contained in the CURES PDMP.*

25 (B) An application may be denied, or a subscriber may be  
26 suspended, for reasons which include, but are not limited to, the  
27 following:

28 (i) Materially falsifying an application for a subscriber.

29 (ii) Failure to maintain effective controls for access to the patient  
30 activity report.

31 (iii) Suspended or revoked federal DEA registration.

32 (iv) Any subscriber who is arrested for a violation of law  
33 governing controlled substances or any other law for which the  
34 possession or use of a controlled substance is an element of the  
35 crime.

36 (v) Any subscriber accessing information for any other reason  
37 than caring for his or her patients.

38 (C) Any authorized subscriber shall notify the Department of  
39 Justice within 30 days of any changes to the subscriber account.

1 (2) A health care practitioner authorized to prescribe, order,  
2 administer, furnish, or dispense Schedule II, Schedule III,~~or~~  
3 ~~Schedule IV, or Schedule V~~ controlled substances pursuant to  
4 Section 11150 or a pharmacist shall be deemed to have complied  
5 with paragraph (1) if the licensed health care practitioner or  
6 pharmacist has been approved to access the CURES database  
7 through the process developed pursuant to subdivision (a) of  
8 Section 209 of the Business and Professions Code.

9 (b) Any request for, or release of, a controlled substance history  
10 pursuant to this section shall be made in accordance with guidelines  
11 developed by the Department of Justice.

12 (c) In order to prevent the inappropriate, improper, or illegal  
13 use of Schedule II, Schedule III,~~or Schedule IV, or Schedule~~  
14 ~~V~~ controlled substances, the Department of Justice may initiate  
15 the referral of the history of controlled substances dispensed to an  
16 individual based on data contained in CURES to licensed health  
17 care practitioners, pharmacists, or both, providing care or services  
18 to the individual.

19 (d) The history of controlled substances dispensed to an  
20 individual based on data contained in CURES that is received by  
21 ~~a practitioner or pharmacist~~ *an authorized subscriber* from the  
22 Department of Justice pursuant to this section shall be considered  
23 medical information subject to the provisions of the Confidentiality  
24 of Medical Information Act contained in Part 2.6 (commencing  
25 with Section 56) of Division 1 of the Civil Code.

26 (e) Information concerning a patient's controlled substance  
27 history provided to ~~a prescriber or pharmacist~~ *an authorized*  
28 *subscriber* pursuant to this section shall include prescriptions for  
29 controlled substances listed in Sections 1308.12, 1308.13,~~and~~  
30 ~~1308.14~~ *1308.14, and 1308.15* of Title 21 of the Code of Federal  
31 Regulations.

32 *SEC. 10. Section 11165.5 of the Health and Safety Code is*  
33 *amended to read:*

34 11165.5. (a) The Department of Justice may seek voluntarily  
35 contributed private funds from insurers, health care service plans,  
36 qualified manufacturers, and other donors for the purpose of  
37 supporting CURES. Insurers, health care service plans, qualified  
38 manufacturers, and other donors may contribute by submitting  
39 their payment to the Controller for deposit into the CURES Fund  
40 established pursuant to subdivision (c) of Section 208 of the

1 Business and Professions Code. The department shall make  
 2 information about the amount and the source of all private funds  
 3 it receives for support of CURES available to the public.  
 4 Contributions to the CURES Fund pursuant to this subdivision  
 5 shall be nondeductible for state tax purposes.

6 (b) For purposes of this section, the following definitions apply:

7 (1) “Controlled substance” means a drug, substance, or  
 8 immediate precursor listed in any schedule in Section 11055,  
 9 11056, ~~or 11057~~ 11057, or 11058 of the Health and Safety Code.

10 (2) “Health care service plan” means an entity licensed pursuant  
 11 to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter  
 12 2.2 (commencing with Section 1340) of Division 2 of the Health  
 13 and Safety Code).

14 (3) “Insurer” means an admitted insurer writing health insurance,  
 15 as defined in Section 106 of the Insurance Code, and an admitted  
 16 insurer writing workers’ compensation insurance, as defined in  
 17 Section 109 of the Insurance Code.

18 (4) “Qualified manufacturer” means a manufacturer of a  
 19 controlled substance, but does not mean a wholesaler or nonresident  
 20 wholesaler of dangerous drugs, regulated pursuant to Article 11  
 21 (commencing with Section 4160) of Chapter 9 of Division 2 of  
 22 the Business and Professions Code, a veterinary food-animal drug  
 23 retailer, regulated pursuant to Article 15 (commencing with Section  
 24 4196) of Chapter 9 of Division 2 of the Business and Professions  
 25 Code, or an individual regulated by the Medical Board of  
 26 California, the Dental Board of California, the California State  
 27 Board of Pharmacy, the Veterinary Medical Board, the Board of  
 28 Registered Nursing, the Physician Assistant Committee of the  
 29 Medical Board of California, the Osteopathic Medical Board of  
 30 California, the State Board of Optometry, or the California Board  
 31 of Podiatric Medicine.

32 *SEC. 11. Section 11166 of the Health and Safety Code is*  
 33 *amended to read:*

34 11166. ~~No~~A person shall *not* fill a prescription for a controlled  
 35 substance after six months has elapsed from the date ~~written on~~  
 36 the prescription *was issued* by the prescriber. ~~No~~A person shall  
 37 *not* knowingly fill a mutilated or forged or altered prescription for  
 38 a controlled substance except for the addition of the address of the  
 39 person for whom the controlled substance is prescribed as provided  
 40 by paragraph ~~(3)~~ (2) of subdivision (b) of Section 11164.

1 SEC. 12. Section 11200 of the Health and Safety Code is  
2 amended to read:

3 11200. (a) ~~No~~A person shall *not* dispense or refill a controlled  
4 substance prescription more than six months after the date thereof.

5 (b) (1) *Except as provided in paragraph (2), a person shall not*  
6 *prescribe a controlled substance, nor shall a person fill, compound,*  
7 *or dispense a prescription for a controlled substance, in a quantity*  
8 *exceeding a 30-day supply.*

9 (2) *A person may prescribe a controlled substance, and a person*  
10 *may fill, compound, or dispense a prescription for a controlled*  
11 *substance, in a quantity not exceeding a 90-day supply if the*  
12 *prescription is issued in the treatment of one of the following:*

13 (A) *A panic disorder.*

14 (B) *Attention deficit disorder.*

15 (C) *A chronic debilitating neurologic condition characterized*  
16 *as a movement disorder or exhibiting seizure, convulsive, or spasm*  
17 *activity.*

18 (D) *Pain in patients with conditions or diseases known to be*  
19 *chronic or incurable.*

20 (E) *Narcolepsy.*

21 ~~(b) No~~

22 (c) (1) *A prescription for a Schedule III or IV substance may*  
23 *shall not* be refilled more than five times and in an amount, for all  
24 refills of that prescription taken together, exceeding a 120-day  
25 supply.

26 ~~(e) No~~

27 (2) *A prescription for a Schedule II substance may shall not* be  
28 refilled.

29 (d) *A person shall not issue a prescription for a controlled*  
30 *substance, nor shall a person fill, compound, or dispense a*  
31 *prescription for a controlled substance, for an ultimate user for*  
32 *whom a previous prescription for a controlled substance was*  
33 *issued within the immediately preceding 30 days until the ultimate*  
34 *user has exhausted all but a seven-day supply of the controlled*  
35 *substance filled, compounded, or dispensed from the previous*  
36 *prescription.*

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