

AMENDED IN ASSEMBLY MAY 16, 2000

AMENDED IN ASSEMBLY MAY 1, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2240

Introduced by Assembly Member Bates

February 24, 2000

An act to amend Section 4070 of, and to add Section 4071.1 to, the Business and Professions Code, and to add Section 11164.5 to the Health and Safety Code, relating to prescriptions.

LEGISLATIVE COUNSEL'S DIGEST

AB 2240, as amended, Bates. Prescriptions: electronic transmission.

The Controlled Substances Act regulates, among other matters, the dispensing by prescription of controlled substances, which are classified into schedules, and the Pharmacy Law regulates, among other matters, the dispensing by prescription of dangerous devices and dangerous drugs, which also include controlled substances. Existing law authorizes the electronic transmission of prescriptions for dangerous devices and dangerous drugs, other than those for a Schedule II controlled substance, which includes cocaine, opiates, and other designated substances, and requires that the prescription be reduced to writing as soon as practicable. Under existing law, the violation of these provisions is a crime.

(1) This bill would provide that a pharmacy receiving an electronic transmission prescription is not required to reduce the prescription to writing or to hard copy form as long as the pharmacy is able to immediately produce a specified hard copy upon request and would require systems within the pharmacy's computer system to prohibit any changes to or deletions of information stored solely in electronic form unless a correction is made by or with the approval of a pharmacist. ~~This bill would also make these provisions applicable to electronically transmitted prescriptions for controlled substances classified in Schedules II, III, IV, or V, upon the approval of the Department of Justice and the California State Board of Pharmacy.~~

(2) This bill would also authorize prescribers, prescribers' agents, and pharmacists to electronically enter prescriptions and orders, as defined, into a pharmacy's or hospital's computer from an outside location, if permitted by the pharmacy or hospital, ~~including, with the approval of the board and the Department of Justice, and if permitted by federal law, prescriptions and orders for controlled substances classified in Schedules II, III, IV, and V.~~

(3) *This bill would authorize, with the approval of the California State Board of Pharmacy and the Department of Justice, a pharmacy or hospital to receive electronic data transmission prescriptions and computer entry prescriptions or orders, as described in paragraph (2), for controlled substances in Schedule II, III, IV, or V, if authorized by federal law and in accordance with regulations promulgated by the Drug Enforcement Administration. This bill would also provide that the provisions of paragraph (1) are applicable, upon approval by the board and the department, to the recordation of these prescriptions and orders received by a pharmacy or a hospital.*

(4) Because the acts authorized by this bill are subject to specified requirements, the violation of which would constitute a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated



by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. It is the intention of the Legislature that
2 pharmacies in this state have the ability to adopt new
3 technologies involving the electronic transmission of
4 prescriptions to reduce the occurrence of dispensing
5 errors and to improve service to Californians. Errors in
6 the dispensing of controlled substances pose the greatest
7 potential of harm to patients. It is the intention of the
8 Legislature that the California State Board of Pharmacy
9 and the Department of Justice allow pharmacies to utilize
10 new technologies to electronically transmit data
11 prescriptions for controlled substances that may reduce
12 the risk of prescription errors as soon as possible after
13 federal law permits this practice, provided that the board
14 and the Attorney General find there is no substantial risk
15 of the diversion of controlled substances by the use of
16 electronic data transmission prescriptions for these
17 substances.

18 SEC. 2. Section 4070 of the Business and Professions
19 Code is amended to read:

20 4070. (a) Except as provided in Section 4019 and
21 subdivision (b), an oral or an electronic data transmission
22 prescription as defined in subdivision (c) of Section 4040
23 shall as soon as practicable be reduced to writing by the
24 pharmacist and shall be filled by, or under the direction
25 of, the pharmacist. The pharmacist need not reduce to
26 writing the address, telephone number, license
27 classification, federal registry number of the prescriber or
28 the address of the patient or patients if the information is
29 readily retrievable in the pharmacy.

30 ~~(b) Except as provided in Section 4019 and Section~~
31 ~~41164.5 of the Health and Safety Code, a pharmacy~~



1 (b) A pharmacy receiving an electronic transmission
2 prescription shall not be required to reduce that
3 prescription to writing or to hard copy form if, for three
4 years from the last date of furnishing pursuant to that
5 prescription or order, the pharmacy is able, upon request
6 by the board, to immediately produce a hard copy report
7 that includes for each date of dispensing of a dangerous
8 drug or dangerous device pursuant to that prescription or
9 order: (1) all of the information described in
10 subparagraphs (A) to (E), inclusive, of paragraph (1) of
11 subdivision (a) of Section 4040, and (2) the name or
12 identifier of the pharmacist who dispensed the dangerous
13 drug or dangerous device. *This subdivision shall not*
14 *apply to prescriptions for controlled substances classified*
15 *in Schedule II, III, IV, or V, except as permitted pursuant*
16 *to Section 11164.5 of the Health and Safety Code.*

17 (c) If only recorded and stored electronically, on
18 magnetic media, or in any other computerized form, the
19 pharmacy's computer system shall not permit the
20 received information or the dangerous drug or dangerous
21 device dispensing information required by this section to
22 be changed, obliterated, destroyed, or disposed of, for the
23 record maintenance period required by law once the
24 information has been received by the pharmacy and once
25 the dangerous drug or dangerous device has been
26 dispensed. Once a dangerous drug or dangerous device
27 has been dispensed, if the previously created record is
28 determined to be incorrect, a correcting addition may be
29 made only by or with the approval of a pharmacist. After
30 a pharmacist enters the change or enters his or her
31 approval of the change into the computer, the resulting
32 record shall include the correcting addition and the date
33 it was made to the record, the identity of the person or
34 pharmacist making the correction, and the identity of the
35 pharmacist approving the correction.

36 (d) Nothing in this section shall impair the
37 requirement to have an electronically transmitted
38 prescription transmitted only to the pharmacy of the
39 patient's choice or to have a written prescription. This



1 requirement shall not apply to orders for medications to
2 be administered in an acute care hospital.

3 SEC. 3. Section 4071.1 is added to the Business and
4 Professions Code, to read:

5 4071.1. (a) A prescriber, a prescriber's authorized
6 agent, or a pharmacist may electronically enter a
7 prescription or an order, as defined in Section 4019, into
8 a pharmacy's or hospital's computer from any location
9 outside of the pharmacy or hospital with the permission
10 of the pharmacy or hospital. For purposes of this section,
11 a "prescriber's authorized agent" is a person licensed or
12 registered under Division 2 (commencing with Section
13 500). *This subdivision shall not apply to prescriptions for*
14 *controlled substances classified in Schedule II, III, IV, or*
15 *V, except as permitted pursuant to Section 11164.5 of the*
16 *Health and Safety Code.*

17 (b) Nothing in this section shall reduce the existing
18 authority of other hospital personnel to enter medication
19 orders or prescription orders into a hospital's computer.

20 (c) No dangerous drug or dangerous device shall be
21 dispensed pursuant to a prescription that has been
22 electronically entered into a pharmacy's computer
23 without the prior approval of a pharmacist.

24 SEC. 4. Section 11164.5 is added to the Health and
25 Safety Code, to read:

26 11164.5. (a) Notwithstanding Section 11164, with the
27 approval of the California State Board of Pharmacy and
28 the Department of Justice, a pharmacy or hospital may
29 ~~receive electronic data transmission prescriptions, or~~
30 ~~computer entry prescriptions, or orders as specified in~~
31 *receive electronic data transmission prescriptions or*
32 *computer entry prescriptions or orders as specified in*
33 Section 4071.1 of the Business and Professions Code, for
34 controlled substances in Schedule II, III, IV, or V if
35 authorized by federal law *and in accordance with*
36 *regulations promulgated by the Drug Enforcement*
37 *Administration.* The California State Board of Pharmacy
38 shall maintain a list of all requests and approvals granted
39 pursuant to this subdivision.



1 (b) Notwithstanding Section 11164, if approved
2 pursuant to subdivision (a), a pharmacy or hospital
3 receiving an electronic transmission prescription; or a
4 computer entry prescription; or order for a controlled
5 substance classified in Schedule II, III, IV, or V shall not
6 be required to reduce that prescription or order to
7 writing or to hard copy form, if for three years from the
8 last day of dispensing that prescription, the pharmacy *or*
9 *hospital* is able, upon request of the board *or the*
10 *Department of Justice*, to immediately produce a hard
11 copy report that includes for each date of dispensing of a
12 controlled substance in Schedules II, III, IV, and V
13 pursuant to the prescription all of the information
14 described in subparagraphs (A) to (E), inclusive, of
15 paragraph (1) of subdivision (a) of Section 4040 of the
16 Business and Professions Code and the name or identifier
17 of the pharmacist who dispensed the controlled
18 substance.

19 (c) Notwithstanding Section 11164, if only recorded
20 and stored electronically, on magnetic media, or in any
21 other computerized form, the pharmacy's *or hospital's*
22 computer system shall not permit the received
23 information or the controlled substance dispensing
24 information required by this section to be changed,
25 obliterated, destroyed, or disposed of, for the record
26 maintenance period required by law, once the
27 information has been received by the pharmacy *or the*
28 *hospital* and once the controlled substance has been
29 dispensed, respectively. Once the controlled substance
30 has been dispensed, if the previously created record is
31 determined to be incorrect, a correcting addition may be
32 made only by or with the approval of a pharmacist. After
33 a pharmacist enters the change or enters his or her
34 approval of the change into the computer, the resulting
35 record shall include the correcting addition and the date
36 it was made to the record, the identity of the person or
37 pharmacist making the correction, and the identity of the
38 pharmacist approving the correction.

39 (d) Nothing in this section shall be construed to
40 exempt any pharmacy *or hospital* dispensing Schedule II



1 controlled substances pursuant to electronic transmission
2 prescriptions from existing reporting requirements.

3 SEC. 5. No reimbursement is required by this act
4 pursuant to Section 6 of Article XIII B of the California
5 Constitution because the only costs that may be incurred
6 by a local agency or school district will be incurred
7 because this act creates a new crime or infraction,
8 eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section
10 17556 of the Government Code, or changes the definition
11 of a crime within the meaning of Section 6 of Article
12 XIII B of the California Constitution.

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