

**ASSEMBLY BILL**

**No. 2018**

---

---

**Introduced by Assembly Members Thomson and Runner  
(Coauthors: Assembly Members Aanestad and Aroner)**

February 18, 2000

---

---

An act to amend Sections 11164 and 11165 of, and to repeal Sections 11161, 11167, 11167.5, and 11169 of, the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 2018, as introduced, Thomson. Controlled substances: Schedule II: triplicate prescription.

Existing law provides that no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense such a prescription unless it complies with specified requirements, one of which is that prescriptions for Schedule II controlled substances shall be prepared in triplicate. The Department of Justice is required to issue these triplicate prescriptions to any practitioner authorized to write a prescription for Schedule II controlled substances.

This bill would eliminate the triplicate prescription requirement for Schedule II controlled substances. The bill would make conforming changes to related provisions.

Existing law provides for the electronic monitoring of the prescribing and dispensing of Schedule II controlled substances pursuant to the Controlled Substance Utilization Review and Evaluation System (CURES) program, as specified. The program is scheduled to become inoperative on July 1, 2003.

This bill would continue the program indefinitely by repealing its repeal date.

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

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

1 SECTION 1. Section 11161 of the Health and Safety  
2 Code is repealed.

3 ~~11161. (a) Prescription blanks shall be issued by the  
4 Department of Justice in serially numbered groups of not  
5 more than 100 forms each in triplicate, and shall be  
6 furnished to any practitioner authorized to write a  
7 prescription for controlled substances classified in  
8 Schedule II. The Department of Justice may charge a fee  
9 for the prescription blanks sufficient to reimburse the  
10 department for the actual costs associated with the  
11 preparation, processing, and filing of any forms issued  
12 pursuant to this section. The prescription blanks shall not  
13 be transferable. The Department of Justice shall not,  
14 during any 30-day period, issue more than 100 triplicate  
15 prescription blanks to any authorized practitioner, until  
16 written justification has been received and approved by  
17 the Department of Justice. Any person possessing a  
18 triplicate prescription blank otherwise than as provided  
19 in this section is guilty of a misdemeanor.~~

20 ~~(b) When a practitioner is named in a warrant of arrest  
21 or is charged in an accusatory pleading with a felony  
22 violation of Section 11153, 11154, 11156, 11157, 11170,  
23 11173, 11350, 11351, 11352, 11353, 11353.5, 11377, 11378,  
24 11378.5, 11379, 11379.5, or 11379.6, the court in which the  
25 accusatory pleading is filed or the magistrate who issued  
26 the warrant of arrest shall, upon the motion of a law  
27 enforcement agency which is supported by reasonable  
28 cause, issue an order which requires the practitioner to  
29 surrender to the clerk of the court all triplicate  
30 prescription blanks in the practitioner's possession at a  
31 time set in the order and shall direct the Department of  
32 Justice to withhold prescription blanks from the  
33 practitioner. The law enforcement agency obtaining the~~



1 order shall notify the Department of Justice of this order.  
2 Except as provided in subdivisions (e) and (f) of this  
3 section, the order shall remain in effect until further  
4 order of the court. Any practitioner possessing  
5 prescription blanks in violation of the order is guilty of a  
6 misdemeanor.

7 (e) The order provided by subdivision (b) shall be  
8 vacated if the court or magistrate finds that the  
9 underlying violation or violations are not supported by  
10 reasonable cause at a hearing held within two court days  
11 after the practitioner files and personally serves upon the  
12 prosecuting attorney and the law enforcement agency  
13 that obtained the order, a notice of motion to vacate the  
14 order with any affidavits on which the practitioner relies.  
15 At the hearing, the burden of proof, by a preponderance  
16 of the evidence, is on the prosecution. Evidence  
17 presented at the hearing shall be limited to the warrant  
18 of arrest with supporting affidavits, the motion to require  
19 the defendant to surrender all triplicate prescription  
20 blanks with supporting affidavits, the sworn complaint  
21 together with any documents or reports incorporated by  
22 reference thereto which, if based on information and  
23 belief, state the basis for the information, or any other  
24 documents of similar reliability as well as affidavits and  
25 counter affidavits submitted by the prosecution and  
26 defense. Granting of the motion to vacate the order is no  
27 bar to prosecution of the alleged violation or violations.

28 (d) The defendant may elect to challenge the order  
29 issued under subdivision (b) at the preliminary  
30 examination. At that hearing, the evidence shall be  
31 limited to that set forth in subdivision (e) and any other  
32 evidence otherwise admissible at the preliminary  
33 examination.

34 (e) If the practitioner has not moved to vacate the  
35 order issued under subdivision (b) by the time of the  
36 preliminary examination and he or she is held to answer  
37 on the underlying violation or violations, the practitioner  
38 shall be precluded from afterwards moving to vacate the  
39 order. If the defendant is not held to answer on the  
40 underlying charge or charges at the conclusion of the



1 preliminary examination, the order issued under  
2 subdivision (b) shall be vacated.

3 (f) Notwithstanding subdivision (c), any practitioner  
4 who is diverted pursuant to Chapter 2.5 (commencing  
5 with Section 1000) of Title 7 of Part 2 of the Penal Code  
6 may file a motion to vacate the order issued under  
7 subdivision (b).

8 SEC. 2. Section 11164 of the Health and Safety Code  
9 is amended to read:

10 11164. Except as provided in Section 11167, no person  
11 shall prescribe a controlled substance, nor shall any  
12 person fill, compound, or dispense such a prescription  
13 unless it complies with the requirements of this section.

14 (a) Each prescription for a controlled substance  
15 classified in Schedule II shall be wholly written in ink or  
16 indelible pencil in the handwriting of the prescriber upon  
17 the official prescription form issued by the Department  
18 of Justice. Each prescription shall be prepared in  
19 triplicate, signed, and dated by the prescriber, and shall  
20 contain the name and address of the person for whom the  
21 controlled substance is prescribed, the name, quantity,  
22 and strength of the controlled substance prescribed,  
23 directions for use, and the address, category of  
24 professional licensure, and the federal controlled  
25 substance registration number of the prescriber. The  
26 original and duplicate of the prescription shall be  
27 delivered to the pharmacist filling the prescription. The  
28 duplicate shall be retained by the pharmacist and the  
29 original, properly endorsed by the pharmacist with the  
30 name and address of the pharmacy, the pharmacy's state  
31 license number, the date the prescription was filled and  
32 the signature of the pharmacist, shall be transmitted to  
33 the Department of Justice at the end of the month in  
34 which the prescription was filled. Upon receipt of an  
35 incompletely prepared official prescription form of the  
36 Department of Justice, the pharmacist may enter on the  
37 face of the prescription the address of the patient.

38 (b) Each prescription for a controlled substance  
39 classified in Schedule II, III, IV, or V, except as authorized



1 by subdivision (c), shall be subject to the following  
2 requirements:

3 (1) The prescription shall be signed and dated by the  
4 prescriber and shall contain the name of the person for  
5 whom the controlled substance is prescribed, the name  
6 and quantity of the controlled substance prescribed, and  
7 directions for use. With respect to prescriptions for  
8 controlled substances classified in Schedules III and IV,  
9 the signature, date, and information required by this  
10 paragraph shall be wholly written in ink or indelible  
11 pencil in the handwriting of the prescriber.

12 (2) In addition, the prescription shall contain the  
13 name, address, telephone number, category of  
14 professional licensure, and federal controlled substance  
15 registration number of the prescriber. The information  
16 required by this paragraph shall be either preprinted  
17 upon the prescription blank, typewritten, rubber  
18 stamped, or printed by hand. Notwithstanding any  
19 provision in this section, the prescriber's address,  
20 telephone number, category of professional licensure, or  
21 federal controlled substances registration number need  
22 not appear on the prescription if that information is  
23 readily retrievable in the pharmacy.

24 (3) The prescription shall also contain the address of  
25 the person for whom the controlled substance is  
26 prescribed. If the prescriber does not specify this address  
27 on the prescription, the pharmacist filling the  
28 prescription or an employee acting under the direction  
29 of the pharmacist shall write or type the address on the  
30 prescription or maintain this information in a readily  
31 retrievable form in the pharmacy.

32 ~~(e)~~

33 (b) Any controlled substance classified in Schedule II,  
34 III, IV, or V may be dispensed upon an oral or  
35 electronically transmitted prescription, which shall be  
36 reduced to writing by the pharmacist filling the  
37 prescription or by any other person expressly authorized  
38 by provisions of the Business and Professions Code. The  
39 date of issue of the prescription and all the information  
40 required for a written prescription by subdivision (b)



1 shall be included in the written record of the prescription.  
 2 The pharmacist need not reduce to writing the address,  
 3 telephone number, license classification, or federal  
 4 registry number of the prescriber or the address of the  
 5 patient if that information is readily retrievable in the  
 6 pharmacy. Pursuant to authorization of the prescriber,  
 7 any employee of the prescriber on behalf of the  
 8 prescriber may orally or electronically transmit a  
 9 prescription for a controlled substance classified in  
 10 Schedule II, III, IV, or V, if in these cases the written  
 11 record of the prescription required by this subdivision  
 12 specifies the name of the employee of the prescriber  
 13 transmitting the prescription.

14 ~~(d)~~

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

17 ~~(e)~~

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

22 ~~(f) In addition to the prescriber's record required by~~  
 23 ~~Section 11190, any practitioner dispensing a controlled~~  
 24 ~~substance classified in Schedule II in accordance with~~  
 25 ~~subdivision (b) of Section 11158 shall prepare a written~~  
 26 ~~record thereof on the official forms issued by the~~  
 27 ~~Department of Justice, pursuant to Section 11161, and~~  
 28 ~~shall transmit the original to the Department of Justice in~~  
 29 ~~accordance with any rules that the department may~~  
 30 ~~adopt for completion and transmittal of the forms.~~

31 SEC. 3. Section 11165 of the Health and Safety Code  
 32 is amended to read:

33 11165. (a) To assist law enforcement and regulatory  
 34 agencies in their efforts to control the diversion and  
 35 resultant abuse of Schedule II controlled substances, and  
 36 for statistical analysis, education, and research, the  
 37 Department of Justice shall, contingent upon the  
 38 availability of adequate funds, establish the Controlled  
 39 Substance Utilization Review and Evaluation System  
 40 (CURES) for the electronic monitoring of the



1 prescribing and dispensing of Schedule II controlled  
2 substances by all practitioners authorized to prescribe or  
3 dispense these controlled substances. ~~CURES shall be~~  
4 ~~implemented as a pilot project, commencing on July 1,~~  
5 ~~1997, to be administered concurrently with the existing~~  
6 ~~triplicate prescription process, to examine the~~  
7 ~~comparative efficiencies between the two systems.~~

8 (b) ~~The CURES pilot project~~ *Program* shall operate  
9 under existing provisions of law to safeguard the privacy  
10 and confidentiality of patients. Data obtained from  
11 CURES shall only be provided to appropriate state, local,  
12 and federal persons or public agencies for disciplinary,  
13 civil, or criminal purposes and to other agencies or  
14 entities, as determined by the Department of Justice, for  
15 the purpose of educating practitioners and others in lieu  
16 of disciplinary, civil, or criminal actions. Data may be  
17 provided to public or private entities, as approved by the  
18 Department of Justice, for educational, peer review,  
19 statistical, or research purposes, provided that patient  
20 information, including any information that may identify  
21 the patient, is not compromised. Further, data disclosed  
22 to any individual or agency as described in this  
23 subdivision, shall not be disclosed, sold, or transferred to  
24 any third party.

25 ~~The Department of Justice, in consultation with~~  
26 ~~the Board of Pharmacy, shall submit a report to the~~  
27 ~~Legislature by January 1, 1999, with annual updates also~~  
28 ~~due January 1, 2000, 2001, and 2002, on the CURES pilot~~  
29 ~~project. Specifically, these reports shall assess the ability~~  
30 ~~of CURES to provide complete, accurate, and timely data~~  
31 ~~on Schedule II controlled substances prescribed and~~  
32 ~~dispensed in California, the effectiveness of this~~  
33 ~~information in investigating and prosecuting individuals~~  
34 ~~suspected of diversion activities, and the feasibility of~~  
35 ~~replacing the current triple-copy prescription form with~~  
36 ~~a single-copy serialized prescription form to reduce~~  
37 ~~existing administrative burdens. Further, the report shall~~  
38 ~~make recommendations regarding the replacement of~~  
39 ~~the existing triplicate prescription process with CURES,~~  
40 ~~and funding alternatives for ongoing system support.~~



1 ~~(d)~~ The sum of one million fifty thousand dollars  
2 (\$1,050,000) is hereby appropriated from the Pharmacy  
3 Board Contingent Fund to the Board of Pharmacy for the  
4 purpose of entering into an interagency agreement with  
5 the Department of Justice for the implementation,  
6 operation, and evaluation of CURES.

7 ~~(e) This section shall become inoperative on July 1,~~  
8 ~~2003, and, as of January 1, 2004, is repealed, unless a later~~  
9 ~~enacted statute, that becomes operative on or before~~  
10 ~~January 1, 2004, deletes or extends the dates on which it~~  
11 ~~becomes inoperative and is repealed.~~

12 SEC. 4. Section 11167 of the Health and Safety Code  
13 is repealed.

14 ~~11167. Notwithstanding subdivision (a) of Section~~  
15 ~~11164, in an emergency where failure to issue a~~  
16 ~~prescription may result in loss of life or intense suffering,~~  
17 ~~an order for a Schedule II controlled substance may be~~  
18 ~~dispensed on an oral, written, or electronic data~~  
19 ~~transmission order, subject to all of the following~~  
20 ~~requirements:~~

21 ~~(a) The order contains all information required by~~  
22 ~~subdivision (a) of Section 11164.~~

23 ~~(b) Any written order is signed and dated by the~~  
24 ~~prescriber in indelible pencil or ink, and the pharmacy~~  
25 ~~reduces any oral or electronic data transmission order to~~  
26 ~~writing prior to actually dispensing the controlled~~  
27 ~~substance.~~

28 ~~(c) The prescriber provides a triplicate prescription,~~  
29 ~~completed as provided by subdivision (a) of Section~~  
30 ~~11164, by the seventh day following the transmission of~~  
31 ~~the initial order; a postmark by the seventh day following~~  
32 ~~transmission of the initial order shall constitute~~  
33 ~~compliance.~~

34 ~~(d) If the prescriber fails to comply with subdivision~~  
35 ~~(e), the pharmacy shall so notify the Bureau of Narcotic~~  
36 ~~Enforcement in writing within 144 hours of the~~  
37 ~~prescriber's failure to do so and shall make and retain a~~  
38 ~~written, readily retrievable record of the prescription,~~  
39 ~~including the date and method of notification of the~~  
40 ~~Bureau of Narcotic Enforcement.~~



1 SEC. 5. Section 11167.5 of the Health and Safety Code  
2 is repealed.

3 ~~11167.5. (a) An order for a controlled substance~~  
4 ~~classified in Schedule II in a licensed skilled nursing~~  
5 ~~facility, an intermediate care facility, or a licensed home~~  
6 ~~health agency providing hospice care may be dispensed~~  
7 ~~upon an oral or electronically transmitted prescription.~~  
8 ~~Prior to filling the prescription, the pharmacist shall~~  
9 ~~reduce it to writing in ink or indelible pencil in the~~  
10 ~~handwriting of the pharmacist upon an official~~  
11 ~~prescription form issued by the Department of Justice for~~  
12 ~~that purpose. The prescriptions shall be prepared in~~  
13 ~~triplicate and shall contain the date the prescription was~~  
14 ~~orally or electronically transmitted by the prescriber, the~~  
15 ~~name of the person for whom the prescription was~~  
16 ~~authorized, the name and address of the licensed facility~~  
17 ~~or home health agency providing hospice care in which~~  
18 ~~that person is a patient, the name and quantity of the~~  
19 ~~controlled substance prescribed, the directions for use,~~  
20 ~~and the name, address, category of professional licensure,~~  
21 ~~and federal controlled substance registration number of~~  
22 ~~the prescriber. The duplicate shall be retained by the~~  
23 ~~pharmacist, and the triplicate shall be forwarded to the~~  
24 ~~prescriber by the end of the month in which the~~  
25 ~~prescription was issued. The original shall be properly~~  
26 ~~endorsed by the pharmacist with the pharmacy's state~~  
27 ~~license number, the signature of the pharmacist, the~~  
28 ~~name and address of the pharmacy, and the signature of~~  
29 ~~the person who received the controlled substances for the~~  
30 ~~licensed facility or home health agency providing hospice~~  
31 ~~care and shall be forwarded by the pharmacist to the~~  
32 ~~Department of Justice at the end of the month in which~~  
33 ~~the prescription was filled. A skilled nursing facility,~~  
34 ~~intermediate care facility, or licensed home health~~  
35 ~~agency providing hospice care shall forward to the~~  
36 ~~dispensing pharmacist a copy of any signed telephone~~  
37 ~~orders, chart orders, or related documentation~~  
38 ~~substantiating each oral or electronically transmitted~~  
39 ~~prescription transaction under this section.~~



1 ~~(b) For the purposes of this section, “hospice care”~~  
2 ~~means interdisciplinary health care which is designed to~~  
3 ~~alleviate the physical, emotional, social, and spiritual~~  
4 ~~discomforts of an individual who is experiencing the last~~  
5 ~~phases of a terminal disease and to provide supportive~~  
6 ~~care for the primary care person and the family of the~~  
7 ~~patient under hospice care.~~

8 SEC. 6. Section 11169 of the Health and Safety Code  
9 is repealed.

10 ~~11169. When codeine, or dihydrocodeinone or~~  
11 ~~tincture opii camphorata (paregoric) is not combined~~  
12 ~~with other medicinal ingredients, it shall be prescribed on~~  
13 ~~the official triplicate blanks.~~

