

AMENDED IN ASSEMBLY APRIL 5, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2018

**Introduced by Assembly Members Thomson and Runner,
Runner, and Migden
(Coauthors: Assembly Members Aanestad and Aroner,
Aroner, Bates, Cardenas, Cox, Honda, and Strom-Martin)
(Coauthor: Senator Bowen)**

February 18, 2000

An act to amend Sections ~~11164 and 11165~~ 11158, 11164, 11165, 11167, and 11167.5 of, and to repeal Sections ~~11161, 11167, 11167.5~~ 11159.2, 11161, 11162, 11162.5, 11163, 11168, and 11169 of, the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

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

(1) 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. *Existing law also imposes specified printing and distribution requirements on prescription blanks, provides that it is a*

crime to counterfeit or knowingly possess official prescription blanks, limits the number of prescription blank groups issued to an individual prescriber by the Department of Justice, requires the retention of a prescriber's prescription book for 3 years, and provides that, subject to a specified alternate procedure and related requirements, a prescription for a Schedule II drug for use by a terminally ill patient is exempt from specified reporting requirements.

This bill would eliminate the triplicate prescription requirement for Schedule II controlled substances. The bill would make conforming changes to related provisions and would repeal specified printing and distribution requirements applicable to prescription blanks for Schedule II and other drugs, provisions making it a crime to counterfeit or knowingly possess prescription blanks, the 3-year recordkeeping requirement, and the alternate Schedule II prescribing procedure applicable to terminally ill patients.

(2) 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 11158 of the Health and Safety*
 2 *Code is amended to read:*
 3 11158. (a) Except as provided in Section 11159 or in
 4 subdivision (b) of this section, no controlled substance
 5 classified in Schedule II shall be dispensed without a
 6 prescription meeting the requirements of this chapter.
 7 Except as provided in Section 11159 or when dispensed
 8 directly to an ultimate user by a practitioner, other than
 9 a pharmacist or pharmacy, no controlled substance
 10 classified in Schedule III, IV, or V may be dispensed



1 without a prescription meeting the requirements of this
2 chapter.

3 (b) A practitioner specified in Section 11150 may
4 dispense directly to an ultimate user a controlled
5 substance classified in Schedule II in an amount not to
6 exceed a 72-hour supply for the patient in accordance
7 with directions for use given by the dispensing
8 practitioner only where the patient is not expected to
9 require any additional amount of the controlled
10 substance beyond the 72 hours. ~~Practitioners dispensing~~
11 ~~drugs pursuant to this subdivision shall meet the~~
12 ~~requirements of subdivision (f) of Section 11164.~~

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

17 *SEC. 2. Section 11159.2 of the Health and Safety Code*
18 *is repealed.*

19 ~~11159.2. (a) Notwithstanding any other provision of~~
20 ~~law, a prescription for a Schedule II controlled substance~~
21 ~~for use by a patient who has a terminal illness shall not be~~
22 ~~subject to Section 11164.~~

23 ~~(b) (1) The prescription shall be signed and dated by~~
24 ~~the prescriber and shall contain the name of the person~~
25 ~~for whom the controlled substance is prescribed, the~~
26 ~~name and quantity of the controlled substance~~
27 ~~prescribed, and directions for use. The signature, date,~~
28 ~~and information required by this paragraph shall be~~
29 ~~wholly written in ink or indelible pencil in the~~
30 ~~handwriting of the prescriber.~~

31 ~~(2) The prescription shall also contain the address of~~
32 ~~the person for whom the controlled substance is~~
33 ~~prescribed, as provided in paragraph (3) of subdivision~~
34 ~~(b) of Section 11164, and shall contain the name, address,~~
35 ~~telephone number, category of professional licensure,~~
36 ~~and federal controlled substance registration number of~~
37 ~~the prescriber, as provided in paragraph (2) of~~
38 ~~subdivision (b) of Section 11164.~~



1 ~~(3) The prescription shall also indicate that the~~
2 ~~prescriber has certified that the patient is terminally ill by~~
3 ~~the words “11159.2 exemption.”~~

4 ~~(e) A pharmacist may fill a prescription pursuant to~~
5 ~~this section when there is a technical error in the~~
6 ~~certification required by paragraph (3) of subdivision~~
7 ~~(b), provided that he or she has personal knowledge of~~
8 ~~the patient’s terminal illness, and subsequently returns~~
9 ~~the prescription to the prescriber for correction within 72~~
10 ~~hours.~~

11 ~~(d) For purposes of this section, “terminally ill” means~~
12 ~~a patient who meets all of the following conditions:~~

13 ~~(1) In the reasonable medical judgment of the~~
14 ~~prescribing physician, the patient has been determined~~
15 ~~to be suffering from an illness that is incurable and~~
16 ~~irreversible.~~

17 ~~(2) In the reasonable medical judgment of the~~
18 ~~prescribing physician, the patient’s illness will, if the~~
19 ~~illness takes its normal course, bring about the death of~~
20 ~~the patient within a period of one year.~~

21 ~~(3) The patient’s treatment by the physician~~
22 ~~prescribing a Schedule II controlled substance pursuant~~
23 ~~to this section primarily is for the control of pain,~~
24 ~~symptom management, or both, rather than for cure of~~
25 ~~the illness.~~

26 *SEC. 3.* Section 11161 of the Health and Safety Code
27 is repealed.

28 *SEC. 2.*

29 *SEC. 4.* Section 11162 of the Health and Safety Code
30 is repealed.

31 ~~11162. The prescription blanks shall be printed on~~
32 ~~distinctive paper, the serial number of the group being~~
33 ~~shown on each form, and each form being serially~~
34 ~~numbered. The prescription blanks shall bear the~~
35 ~~preprinted name, address, and category of professional~~
36 ~~licensure of the practitioner to whom they are issued, and~~
37 ~~the federal registry number for controlled substances.~~

38 *SEC. 5.* Section 11162.5 of the Health and Safety Code
39 is repealed.



1 ~~11162.5. (a) Every person who counterfeits a~~
2 ~~prescription blank purporting to be an official~~
3 ~~prescription blank prepared and issued pursuant to~~
4 ~~Section 11161, or knowingly possesses more than three~~
5 ~~such counterfeited prescription blanks, shall be punished~~
6 ~~by imprisonment in the state prison or by imprisonment~~
7 ~~in the county jail for not more than one year.~~

8 ~~(b) Every person who knowingly possesses three or~~
9 ~~fewer counterfeited prescription blanks purporting to be~~
10 ~~official prescription blanks prepared and issued pursuant~~
11 ~~to Section 11161, shall be guilty of a misdemeanor~~
12 ~~punishable by imprisonment in the county jail not~~
13 ~~exceeding six months, or by a fine not exceeding one~~
14 ~~thousand dollars (\$1,000), or by both.~~

15 *SEC. 6. Section 11163 of the Health and Safety Code*
16 *is repealed.*

17 ~~11163. Not more than one such prescription group~~
18 ~~shall in any case be issued or furnished by the~~
19 ~~Department of Justice to the same prescriber at one time.~~

20 *SEC. 7. Section 11164 of the Health and Safety Code*
21 *is amended to read:*

22 11164. Except as provided in Section 11167, no person
23 shall prescribe a controlled substance, nor shall any
24 person fill, compound, or dispense such a prescription
25 unless it complies with the requirements of this section.

26 (a) Each prescription for a controlled substance
27 classified in Schedule II, III, IV, or V, except as authorized
28 by subdivision ~~(e)~~ (b), shall be subject to the following
29 requirements:

30 (1) The prescription shall be signed and dated by the
31 prescriber and shall contain the name of the person for
32 whom the controlled substance is prescribed, the name
33 and quantity of the controlled substance prescribed, and
34 directions for use. ~~With respect to prescriptions~~
35 *Prescriptions* for controlled substances classified in
36 ~~Schedules III and IV, II, III, and IV shall include~~ the
37 signature, date, and information required by this
38 paragraph, *and* shall be wholly written in ink or indelible
39 pencil in the handwriting of the prescriber.



1 (2) In addition, the prescription shall contain the
2 name, address, telephone number, category of
3 professional licensure, and federal controlled substance
4 registration number of the prescriber. The information
5 required by this paragraph shall be either preprinted
6 upon the prescription blank, typewritten, rubber
7 stamped, or printed by hand. Notwithstanding any
8 provision in this section, the prescriber's address,
9 telephone number, category of professional licensure, or
10 federal controlled substances registration number need
11 not appear on the prescription if that information is
12 readily retrievable in the pharmacy.

13 (3) The prescription shall also contain the address of
14 the person for whom the controlled substance is
15 prescribed. If the prescriber does not specify this address
16 on the prescription, the pharmacist filling the
17 prescription or an employee acting under the direction
18 of the pharmacist shall write or type the address on the
19 prescription or maintain this information in a readily
20 retrievable form in the pharmacy.

21 (b) Any controlled substance classified in Schedule—~~H~~,
22 III, IV, or V may be dispensed upon an oral or
23 electronically transmitted prescription, which shall be
24 reduced to writing by the pharmacist filling the
25 prescription or by any other person expressly authorized
26 by provisions of the Business and Professions Code. The
27 date of issue of the prescription and all the information
28 required for a written prescription by subdivision—~~(b)~~ (a)
29 shall be included in the written record of the prescription.
30 The pharmacist need not reduce to writing the address,
31 telephone number, license classification, or federal
32 registry number of the prescriber or the address of the
33 patient if that information is readily retrievable in the
34 pharmacy. Pursuant to authorization of the prescriber,
35 any employee of the prescriber on behalf of the
36 prescriber may orally or electronically transmit a
37 prescription for a controlled substance classified in
38 Schedule—~~H~~, III, IV, or V, if in these cases the written
39 record of the prescription required by this subdivision



1 specifies the name of the employee of the prescriber
2 transmitting the prescription.

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

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

9 ~~SEC. 3.~~

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

12 11165. (a) To assist law enforcement and regulatory
13 agencies in their efforts to control the diversion and
14 resultant abuse of Schedule II controlled substances, and
15 for statistical analysis, education, and research, the
16 Department of Justice shall, contingent upon the
17 availability of adequate funds, establish the Controlled
18 Substance Utilization Review and Evaluation System
19 (CURES) for the electronic monitoring of the
20 prescribing and dispensing of Schedule II controlled
21 substances by all practitioners authorized to prescribe or
22 dispense these controlled substances.

23 (b) The CURES Program shall operate under existing
24 provisions of law to safeguard the privacy and
25 confidentiality of patients. Data obtained from CURES
26 shall only be provided to appropriate state, local, and
27 federal persons or public agencies for disciplinary, civil,
28 or criminal purposes and to other agencies or entities, as
29 determined by the Department of Justice, for the
30 purpose of educating practitioners and others in lieu of
31 disciplinary, civil, or criminal actions. Data may be
32 provided to public or private entities, as approved by the
33 Department of Justice, for educational, peer review,
34 statistical, or research purposes, provided that patient
35 information, including any information that may identify
36 the patient, is not compromised. Further, data disclosed
37 to any individual or agency as described in this
38 subdivision, shall not be disclosed, sold, or transferred to
39 any third party.



1 ~~(c) 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 ~~SEC. 4. Section 11167 of the Health and Safety Code~~
8 ~~is repealed.~~

9 ~~SEC. 5. Section 11167.5 of the Health and Safety Code~~
10 ~~is repealed.~~

11 ~~SEC. 6.~~

12 *SEC. 9. Section 11167 of the Health and Safety Code*
13 *is amended to read:*

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~~ *The*
25 *pharmacy reduces any oral or electronic data*
26 *transmission order to writing prior to actually dispensing*
27 *the controlled substance.*

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

34 (d) If the prescriber fails to comply with subdivision
35 (c), 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. 10. Section 11167.5 of the Health and Safety
2 Code is amended to read:

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~~ prescription shall be
23 retained by the pharmacist, and ~~the triplicate shall be~~
24 ~~forwarded to the prescriber by the end of the month in~~
25 ~~which the prescription was issued.~~ The original shall be
26 properly endorsed by the pharmacist with the
27 pharmacy's state license number, the signature of the
28 pharmacist, the name and address of the pharmacy, and
29 the signature of the person who received the controlled
30 substances for the licensed facility or home health agency
31 providing hospice care ~~and shall be forwarded by the~~
32 ~~pharmacist to the Department of Justice at the end of the~~
33 ~~month in which the prescription was filled.~~ A skilled
34 nursing facility, intermediate care facility, or licensed
35 home health agency providing hospice care shall forward
36 to the dispensing pharmacist a copy of any signed
37 telephone 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. 11. Section 11168 of the Health and Safety Code*
9 *is repealed.*

10 ~~11168. The prescription book containing the~~
11 ~~prescriber’s copies of prescriptions issued shall be~~
12 ~~retained by the prescriber which shall be preserved for~~
13 ~~three years.~~

14 *SEC. 12. Section 11169 of the Health and Safety Code*
15 *is repealed.*

