

Assembly Bill No. 2018

Passed the Assembly August 31, 2000

Chief Clerk of the Assembly

Passed the Senate August 31, 2000

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2000, at _____ o'clock ____M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Sections 11161 and 11164 of, and to repeal Section 11163 of, the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 2018, 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 in serially numbered groups of not more than 100 forms to any practitioner authorized to write a prescription for Schedule II controlled substances. Existing law also limits the number of prescription blank groups issued to an individual prescriber by the Department of Justice.

This bill would revise the distribution requirements applicable to prescription blanks for Schedule II controlled substances and would revise the information required in a prescription for a Schedule II controlled substance. The bill would authorize a pharmacist to fill a prescription for a controlled substance classified in Schedule II containing an error or errors, provided the pharmacist notifies the prescriber of the error or errors and the prescriber approves any correction. The prescriber would be required to fax or mail a corrected prescription to the pharmacist within 7 days of the prescription being dispensed.

(2) Existing law provides that in general a violation of any of the provisions relating to the prescription of controlled substances is a misdemeanor. By creating new crimes and extending the operation of criminal provisions, this bill would impose a state-mandated local program on local government.



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.

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

SECTION 1. Section 11161 of the Health and Safety Code is amended to read:

11161. (a) Prescription blanks shall be issued by the Department of Justice in serially numbered groups of not more than 100 forms each in triplicate unless a practitioner orally, electronically, or in writing requests a larger amount, and shall be furnished to any practitioner authorized to write a prescription for controlled substances classified in Schedule II. The Department of Justice may charge a fee for the prescription blanks sufficient to reimburse the department for the actual costs associated with the preparation, processing, and filing of any forms issued pursuant to this section. The prescription blanks shall not be transferable. Any person possessing a triplicate prescription blank otherwise than as provided in this section is guilty of a misdemeanor.

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



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

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

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

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



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

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

SEC. 2. Section 11163 of the Health and Safety Code is repealed.

SEC. 3. Section 11164 of the Health and Safety Code is amended to read:

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

(a) The signature on each prescription for a controlled substance classified in Schedule II shall be wholly written in ink or indelible pencil in the handwriting of the prescriber upon the official prescription form issued by the Department of Justice. Each prescription shall be prepared in triplicate, signed by the prescriber, and shall contain, either typewritten or handwritten by the physician or his or her employee, the date, name, and address of the person for whom the controlled substance is prescribed, the name, quantity, and strength of the controlled substance prescribed, directions for use, and the address, category of professional licensure, and the federal controlled substance registration number of the prescriber. The original and duplicate of the prescription shall be delivered to the pharmacist filling the prescription. The duplicate shall be retained by the pharmacist and the original, properly endorsed by the pharmacist with the name and address of the pharmacy, the pharmacy's state license number, the date the prescription was filled and the signature of the pharmacist, shall be transmitted to the Department of Justice at the end of the month in which the prescription was filled. Upon receipt of an incompletely prepared official prescription form of the Department of Justice, the pharmacist may enter on the face of the prescription



the address of the patient. A pharmacist may fill a prescription for a controlled substance classified in Schedule II containing an error or errors, if the pharmacist notifies the prescriber of the error or errors and the prescriber approves any correction. The prescriber shall fax or mail a corrected prescription to the pharmacist within seven days of the prescription being dispensed.

(b) Each prescription for a controlled substance classified in Schedule III, IV, or V, except as authorized by subdivision (c), shall be subject to the following requirements:

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

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

(3) The prescription shall also contain the address of the person for whom the controlled substance is prescribed. If the prescriber does not specify this address on the prescription, the pharmacist filling the prescription or an employee acting under the direction of the pharmacist shall write or type the address on the



prescription or maintain this information in a readily retrievable form in the pharmacy.

(c) Any controlled substance classified in Schedule III, IV, or V may be dispensed upon an oral or electronically transmitted prescription, which shall be reduced to writing by the pharmacist filling the prescription or by any other person expressly authorized by provisions of the Business and Professions Code. The date of issue of the prescription and all the information required for a written prescription by subdivision (b) shall be included in the written record of the prescription. The pharmacist need not reduce to writing the address, telephone number, license classification, or federal registry number of the prescriber or the address of the patient if that information is readily retrievable in the pharmacy. Pursuant to authorization of the prescriber, any employee of the prescriber on behalf of the prescriber may orally or electronically transmit a prescription for a controlled substance classified in Schedule III, IV, or V, if in these cases the written record of the prescription required by this subdivision specifies the name of the employee of the prescriber transmitting the prescription.

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

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

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

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred



by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved _____, 2000

Governor

