

AMENDED IN SENATE APRIL 16, 2001

SENATE BILL

No. 1000

Introduced by Senator Johannessen

February 23, 2001

An act to amend Sections ~~11164, 11165, and 11167 of, and to repeal Sections 11159.2, 11161, 11162.5, 11167.5, 11168, and 11169 of, the Section 11165 of the Health and Safety Code, relating to controlled substances, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1000, as amended, Johannessen. Schedule II controlled substances: prescription requirements.

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. ~~Prescriptions for Schedule II controlled substances made for terminally ill patients or in an emergency are exempted from these requirements but are subject to other prescription requirements, as specified. The Department of Justice is required to issue the triplicate prescriptions to any practitioner authorized to write a prescription for Schedule II controlled substances. Existing law also 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 *state the Legislature's intent to eliminate the triplicate prescription requirement for Schedule II controlled substances,*~~would~~

~~eliminate the specified prescription requirements provided for terminally ill patients, and would revise when the emergency prescription requirements are applicable. 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. Existing law appropriates \$1,050,000 from the Pharmacy Board Contingent Fund to the Board of Pharmacy for the purpose of entering into an interagency agreement with the Department of Justice for the implementation, operation, and evaluation of CURES. The program is scheduled to become inoperative on July 1, 2003.~~

~~This bill would eliminate the above appropriation and would continue the program indefinitely by deleting its repeal date when a secure stand-alone electronic monitoring system is in place. This bill would direct the Attorney General to prepare a report describing how CURES would have to be modified in order to make it a secure stand-alone electronic monitoring system, and would require the Department of Justice to dedicate 2 employees with peace officer status to investigate persons who improperly prescribe Schedule II controlled substances. This bill would appropriate \$140,000 to the department for use in carrying out these duties. This bill would also continue the CURES program indefinitely by deleting its repeal provisions.~~

~~Vote: majority ²/₃. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.~~

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

- 1 ~~SECTION 1. — Section 11159.2 of the Health and Safety Code~~
- 2 *SECTION 1. (a) It is the intent of the Legislature to do away*
- 3 *with the requirement that prescriptions for Schedule II controlled*
- 4 *substances be prepared in triplicate when a secure stand-alone*
- 5 *electronic monitoring system is in place. It is the intent of the*
- 6 *Legislature that the triplicate prescription requirement be done*
- 7 *away with as soon as possible.*
- 8 *(b) The Attorney General shall produce and submit a report to*
- 9 *the Legislature on or before July 1, 2002, describing how the*
- 10 *Controlled Substance Utilization Review and Evaluation System*
- 11 *(CURES) needs to be modified in order to make it a secure*



1 *stand-alone electronic monitoring system. The report can include*
2 *a discussion of similar systems used by other states.*

3 (c) *The Department of Justice shall dedicate two department*
4 *employees with peace officer status to use the CURES program to*
5 *investigate persons who improperly prescribe Schedule II*
6 *controlled substances.*

7 (d) *The sum of one hundred forty thousand dollars (\$140,000)*
8 *is hereby appropriated from the General Fund to the Department*
9 *of Justice for expenditure in producing the report described in*
10 *subdivision (b) and paying the salaries of the employees described*
11 *in subdivision (c).*

12 ~~is repealed.~~

13 ~~SEC. 2. Section 11161 of the Health and Safety Code is~~
14 ~~repealed.~~

15 ~~SEC. 3. Section 11162.5 of the Health and Safety Code is~~
16 ~~repealed.~~

17 ~~SEC. 4. Section 11164 of the Health and Safety Code is~~
18 ~~amended to read:~~

19 ~~11164. Except as provided in Section 11167, no person shall~~
20 ~~prescribe a controlled substance, nor shall any person fill,~~
21 ~~compound, or dispense such a prescription unless it complies with~~
22 ~~the requirements of this section.~~

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

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

34 (2) ~~In addition, the prescription shall contain the name,~~
35 ~~address, telephone number, category of professional licensure, and~~
36 ~~federal controlled substance registration number of the prescriber.~~
37 ~~The information required by this paragraph shall be either~~
38 ~~preprinted upon the prescription blank, typewritten, rubber~~
39 ~~stamped, or printed by hand. Notwithstanding any provision in this~~
40 ~~section, the prescriber's address, telephone number, category of~~



1 professional licensure, or federal controlled substances
2 registration number need not appear on the prescription if that
3 information is readily retrievable in the pharmacy.

4 (3) The prescription shall also contain the address of the person
5 for whom the controlled substance is prescribed. If the prescriber
6 does not specify this address on the prescription, the pharmacist
7 filling the prescription or an employee acting under the direction
8 of the pharmacist shall write or type the address on the prescription
9 or maintain this information in a readily retrievable form in the
10 pharmacy.

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

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

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

34 ~~SEC. 5.~~

35 *SEC. 2.* Section 11165 of the Health and Safety Code is
36 amended to read:

37 11165. (a) To assist law enforcement and regulatory agencies
38 in their efforts to control the diversion and resultant abuse of
39 Schedule II controlled substances, and for statistical analysis,
40 education, and research, the Department of Justice shall,



1 contingent upon the availability of adequate funds, establish the
2 Controlled Substance Utilization Review and Evaluation System
3 (CURES) for the electronic monitoring of the prescribing and
4 dispensing of Schedule II controlled substances by all
5 practitioners authorized to prescribe or dispense these controlled
6 substances.

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

22 (c) *The Department of Justice, in consultation with the Board*
23 *of Pharmacy, shall submit a report to the Legislature by January*
24 *1, 1999, with annual updates also due January 1, 2000, 2001, and*
25 *2002, on the CURES project. Specifically, these reports shall*
26 *assess the ability of CURES to provide complete, accurate, and*
27 *timely data on Schedule II controlled substances prescribed and*
28 *dispensed in California, the effectiveness of this information in*
29 *investigating and prosecuting individuals suspected of diversion*
30 *activities, and the feasibility of replacing the current triple-copy*
31 *prescription form with a single-copy serialized prescription form*
32 *to reduce existing administrative burdens. Further, the report shall*
33 *make recommendations regarding the replacement of the existing*
34 *triplicate prescription process with CURES, and funding*
35 *alternatives for ongoing system support.*

36 (d) *The sum of one million fifty thousand dollars (\$1,050,000)*
37 *is hereby appropriated from the Pharmacy Board Contingent Fund*
38 *to the Board of Pharmacy for the purpose of entering into an*
39 *interagency agreement with the Department of Justice for the*
40 *implementation, operation, and evaluation of CURES.*



1 ~~SEC. 6.— Section 11167 of the Health and Safety Code is~~
2 ~~amended to read:~~

3 ~~11167.— Notwithstanding subdivision (a) of Section 11164, in~~
4 ~~an emergency situation, an order for a Schedule II controlled~~
5 ~~substance may be dispensed on an oral, written, or electronic data~~
6 ~~transmission order, subject to all of the following requirements:~~

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

9 ~~(b) Any written order is signed and dated by the prescriber in~~
10 ~~indelible pencil or ink, and the pharmacy reduces any oral or~~
11 ~~electronic data transmission order to writing prior to actually~~
12 ~~dispensing the controlled substance.~~

13 ~~(c) The prescriber provides a prescription, completed as~~
14 ~~provided by subdivision (a) of Section 11164, by the seventh day~~
15 ~~following the transmission of the initial order; a postmark by the~~
16 ~~seventh day following transmission of the initial order shall~~
17 ~~constitute compliance.~~

18 ~~(d) If the prescriber fails to comply with subdivision (c), the~~
19 ~~pharmacy shall so notify the Bureau of Narcotic Enforcement in~~
20 ~~writing within 144 hours of the prescriber’s failure to do so and~~
21 ~~shall make and retain a written, readily retrievable record of the~~
22 ~~prescription, including the date and method of notification of the~~
23 ~~Bureau of Narcotic Enforcement.~~

24 ~~(e) For purposes of this section, “emergency situation” means~~
25 ~~a situation in which the prescriber determines that all of the~~
26 ~~following exist:~~

27 ~~(1) Immediate administration of the controlled substance is~~
28 ~~necessary for the proper treatment of the intended ultimate user.~~

29 ~~(2) No appropriate alternative treatment is available, including~~
30 ~~the administration of a controlled substance that is not classified~~
31 ~~under Schedule H.~~

32 ~~(3) It is not reasonably possible for the prescriber to provide a~~
33 ~~written prescription to be presented to the person dispensing the~~
34 ~~substance, prior to the dispensing.~~

35 ~~SEC. 7.— Section 11167.5 of the Health and Safety Code is~~
36 ~~repealed.~~

37 ~~SEC. 8.— Section 11168 of the Health and Safety Code is~~
38 ~~repealed.~~



1 ~~SEC. 9. Section 11169 of the Health and Safety Code is~~
2 ~~repealed.~~

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