

AMENDED IN ASSEMBLY MAY 26, 2006

AMENDED IN ASSEMBLY APRIL 5, 2006

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2986**

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**Introduced by Assembly Member Mullin**

February 24, 2006

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An act to amend Sections 11162.1, 11164, 11165, 11165.1, and 11190 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 2986, as amended, Mullin. Controlled substances: prescription requirements.

(1) Existing law provides that no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense such a prescription unless the prescription complies with specified requirements; the prescription must be printed with specified features and must set forth specified information. Unless otherwise specified, a violation of any of these provisions is a misdemeanor, punishable as specified.

This bill would require the prescription forms to also include the name, ~~address, and telephone number~~ of the ultimate user or research subject, or the contact information as determined by the U.S. Secretary of Health and Human Services; check boxes so that the prescriber may indicate the number of refills ordered ~~and whether the prescription is a first-time request or a refill~~.

(2) Existing law provides for the electronic monitoring and reporting of the prescribing and dispensing of Schedule II and

Schedule III controlled substances pursuant to the Controlled Substance Utilization Review and Evaluation System (CURES) program.

This bill would provide that the CURES program shall also monitor and report on the prescribing and dispensing of Schedule IV controlled substances.

(3) Existing law provides that every practitioner, other than a pharmacist, who prescribes or administers a Schedule II controlled substance shall make a record of the transaction and shall provide the Department of Justice with information relating to the transaction on a monthly basis, as specified.

This bill would ~~instead~~ *provide that every practitioner other than a pharmacist, who prescribes or administers a Schedule II, Schedule III or Schedule IV controlled substance shall make a record of the transaction and would require the information to be provided to the Department of Justice on a weekly basis.*

(4) The bill would make conforming changes to related provisions. By revising existing crimes, 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. Section 11162.1 of the Health and Safety Code
- 2 is amended to read:
- 3 11162.1. (a) The prescription forms for controlled substances
- 4 shall be printed with the following features:
- 5 (1) A latent, repetitive “void” pattern shall be printed across
- 6 the entire front of the prescription blank; if a prescription is
- 7 scanned or photocopied, the word “void” shall appear in a pattern
- 8 across the entire front of the prescription.

1 (2) A watermark shall be printed on the backside of the  
2 prescription blank; the watermark shall consist of the words  
3 “California Security Prescription.”

4 (3) A chemical void protection that prevents alteration by  
5 chemical washing.

6 (4) A feature printed in thermo-chromic ink.

7 (5) An area of opaque writing so that the writing disappears if  
8 the prescription is lightened.

9 (6) A description of the security features included on each  
10 prescription form.

11 (7) (A) Six quantity check off boxes shall be printed on the  
12 form and the following quantities shall appear:

13 1–24

14 25–49

15 50–74

16 75–100

17 101–150

18 151 and over.

19 (B) In conjunction with the quantity boxes, a space shall be  
20 provided to designate the units referenced in the quantity boxes  
21 when the drug is not in tablet or capsule form.

22 (8) Prescription blanks shall contain a statement printed on the  
23 bottom of the prescription blank that the “Prescription is void if  
24 the number of drugs prescribed is not noted.”

25 (9) The preprinted name, category of licensure, license  
26 number, federal controlled substance registration number of the  
27 prescribing practitioner.

28 ~~(10) The telephone number of the ultimate user or research~~  
29 ~~subject, or the contact information as determined by the~~  
30 ~~Secretary of the United States Department of Health and Human~~  
31 ~~Services.~~

32 ~~(11)~~

33 (10) Check boxes shall be printed on the form so that the  
34 prescriber may indicate the number of refills ordered ~~and whether~~  
35 ~~the prescription is a first-time request or a refill.~~

36 ~~(12)~~

37 (11) The date of origin of the prescription.

38 ~~(13)~~

39 (12) A check box indicating the prescriber’s order not to  
40 substitute.

1     ~~(14)~~  
2     (13) An identifying number assigned to the approved security  
3 printer by the Department of Justice.

4     ~~(15)~~  
5     (14) (A) A check box by the name of each prescriber when a  
6 prescription form lists multiple prescribers.

7     (B) Each prescriber who signs the prescription form shall  
8 identify himself or herself as the prescriber by checking the box  
9 by their name.

10    (b) Each batch of controlled substance prescription forms shall  
11 have the lot number printed on the form and each form within  
12 that batch shall be numbered sequentially beginning with the  
13 numeral one.

14    (c) (1) A prescriber designated by a licensed health care  
15 facility, a clinic specified in Section 1200, or a clinic specified in  
16 subdivision (a) of Section 1206 that has 25 or more physicians or  
17 surgeons may order controlled substance prescription forms for  
18 use by prescribers when treating patients in that facility without  
19 the information required in paragraph (9) of subdivision (a) or  
20 paragraph (3) of this subdivision.

21    (2) Forms ordered pursuant to this subdivision shall have the  
22 name, category of licensure, license number, and federal  
23 controlled substance registration number of the designated  
24 prescriber and the name, address, category of licensure, and  
25 license number of the licensed health care facility the clinic  
26 specified in Section 1200, or the clinic specified in subdivision  
27 (a) of Section 1206 that has 25 or more physicians or surgeons  
28 preprinted on the form.

29    (3) Forms ordered pursuant to this section shall not be valid  
30 prescriptions without the name, category of licensure, license  
31 number, and federal controlled substance registration number of  
32 the prescriber on the form.

33    (4) (A) Except as provided in subparagraph (B), the designated  
34 prescriber shall maintain a record of the prescribers to whom the  
35 controlled substance prescription forms are issued, that shall  
36 include the name, category of licensure, license number, federal  
37 controlled substance registration number, and the quantity of  
38 controlled substance prescription forms issued to each prescriber  
39 and be maintained in the health facility for three years.

1 (B) Forms ordered pursuant to this subdivision that are printed  
2 by a computerized prescription generation system shall not be  
3 subject to the requirements set forth in subparagraph (A) or  
4 paragraph (7) of subdivision (a). Forms printed pursuant to this  
5 subdivision that are printed by a computerized prescription  
6 generation system may contain the prescriber's name, category of  
7 professional licensure, license number, federal controlled  
8 substance registration number, and the date of the prescription.

9 (d) This section shall become operative on July 1, 2004.

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

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

16 (a) Each prescription for a controlled substance classified in  
17 Schedule II, III, IV, or V, except as authorized by subdivision  
18 (b), shall be made on a controlled substance prescription form as  
19 specified in Section 11162.1 and shall meet the following  
20 requirements:

21 (1) The prescription shall be signed and dated by the  
22 prescriber in ink and shall contain the prescriber's address and  
23 telephone number; the name, ~~address, and telephone number~~ of  
24 the ultimate user or research subject, or contact information as  
25 determined by the Secretary of the United States Department of  
26 Health and Human Services; refill information, such as the  
27 number of refills ordered and whether the prescription is a  
28 first-time request or a refill; ~~the date of origin of the prescription;~~  
29 and the name, quantity, strength, and directions for use of the  
30 controlled substance prescribed.

31 (2) The prescription shall also contain the address of the  
32 person for whom the controlled substance is prescribed. If the  
33 prescriber does not specify this address on the prescription, the  
34 pharmacist filling the prescription or an employee acting under  
35 the direction of the pharmacist shall write or type the address on  
36 the prescription or maintain this information in a readily  
37 retrievable form in the pharmacy.

38 (b) (1) Notwithstanding paragraph (1) of subdivision (a) of  
39 Section 11162.1, any controlled substance classified in Schedule  
40 III, IV, or V may be dispensed upon an oral or electronically

1 transmitted prescription, which shall be produced in hard copy  
2 form and signed and dated by the pharmacist filling the  
3 prescription or by any other person expressly authorized by  
4 provisions of the Business and Professions Code. Any person  
5 who transmits, maintains, or receives any electronically  
6 transmitted prescription shall ensure the security, integrity,  
7 authority, and confidentiality of the prescription.

8 (2) The date of issue of the prescription and all the information  
9 required for a written prescription by subdivision (a) shall be  
10 included in the written record of the prescription; the pharmacist  
11 need not include the address, telephone number, license  
12 classification, or federal registry number of the prescriber or the  
13 address of the patient on the hard copy, if that information is  
14 readily retrievable in the pharmacy.

15 (3) Pursuant to an authorization of the prescriber, any agent of  
16 the prescriber on behalf of the prescriber may orally or  
17 electronically transmit a prescription for a controlled substance  
18 classified in Schedule III, IV, or V, if in these cases the written  
19 record of the prescription required by this subdivision specifies  
20 the name of the agent of the prescriber transmitting the  
21 prescription.

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

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

28 (e) This section shall become operative on January 1, 2005.

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

31 11165. (a) To assist law enforcement and regulatory  
32 agencies in their efforts to control the diversion and resultant  
33 abuse of Schedule II, Schedule III, and Schedule IV controlled  
34 substances, and for statistical analysis, education, and research,  
35 the Department of Justice shall, contingent upon the availability  
36 of adequate funds from the Contingent Fund of the Medical  
37 Board of California, the Pharmacy Board Contingent Fund, the  
38 State Dentistry Fund, the Board of Registered Nursing Fund, and  
39 the Osteopathic Medical Board of California Contingent Fund,  
40 maintain the Controlled Substance Utilization Review and

1 Evaluation System (CURES) for the electronic monitoring of the  
2 prescribing and dispensing of Schedule II, Schedule III, and  
3 Schedule IV controlled substances by all practitioners authorized  
4 to prescribe or dispense these controlled substances.

5 (b) The reporting of Schedule III and Schedule IV controlled  
6 substance prescriptions to CURES shall be contingent upon the  
7 availability of adequate funds from the Department of Justice.  
8 The Department of Justice may seek and use grant funds to pay  
9 the costs incurred from the reporting of controlled substance  
10 prescriptions to CURES. Funds shall not be appropriated from  
11 the Contingent Fund of the Medical Board of California, the  
12 Pharmacy Board Contingent Fund, the State Dentistry Fund, the  
13 Board of Registered Nursing Fund, the Naturopathic Doctor's  
14 Fund, or the Osteopathic Medical Board of California Contingent  
15 Fund to pay the costs of reporting Schedule III and Schedule IV  
16 controlled substance prescriptions to CURES.

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

32 (d) For each prescription for a Schedule II, Schedule III, or  
33 Schedule IV controlled substance, the dispensing pharmacy shall  
34 provide the following information to the Department of Justice in  
35 a frequency and format specified by the Department of Justice:

36 (1) Full name, address, and the telephone number of the  
37 ultimate user or research subject, or contact information as  
38 determined by the Secretary of the United States Department of  
39 Health and Human Services, and the gender, and date of birth of  
40 the patient.

1 (2) The prescriber’s category of licensure and license number;  
2 federal controlled substance registration number; and the state  
3 medical license number of any prescriber using the federal  
4 controlled substance registration number of a  
5 government-exempt facility.

6 (3) Pharmacy prescription number, license number, and  
7 federal controlled substance registration number.

8 (4) NDC (National Drug Code) number of the controlled  
9 substance dispensed.

10 (5) Quantity of the controlled substance dispensed.

11 (6) ICD-9 (diagnosis code), if available.

12 (7) Number of refills ordered.

13 (8) Whether the drug was dispensed as a refill of a prescription  
14 or as a first-time request.

15 (9) Date of origin of the prescription.

16 (10) Date of dispensing of the prescription.

17 (e) This section shall become operative on January 1, 2005.

18 SEC. 4. Section 11165.1 of the Health and Safety Code is  
19 amended to read:

20 11165.1. (a) (1) A licensed health care practitioner eligible  
21 to prescribe Schedule II, Schedule III, or Schedule IV controlled  
22 substances or a pharmacist may make a written request for, and  
23 the Department of Justice may release to that practitioner or  
24 pharmacist, the history of controlled substances dispensed to an  
25 individual under his or her care based on data contained in  
26 CURES.

27 (2) Any request for, or release of, a controlled substance  
28 history pursuant to this section shall be made in accordance with  
29 guidelines developed by the Department of Justice.

30 (b) In order to prevent the inappropriate, improper, or illegal  
31 use of Schedule II, Schedule III, or Schedule IV controlled  
32 substances, the Department of Justice may initiate the referral of  
33 the history of controlled substances dispensed to an individual  
34 based on data contained in CURES to licensed health care  
35 practitioners, pharmacists, or both, providing care or services to  
36 the individual.

37 (c) The history of controlled substances dispensed to an  
38 individual based on data contained in CURES that is received by  
39 a practitioner or pharmacist from the Department of Justice  
40 pursuant to this section shall be considered medical information

1 subject to the provisions of the Confidentiality of Medical  
2 Information Act contained in Part 2.6 (commencing with Section  
3 56) of Division 1 of the Civil Code.

4 SEC. 5. Section 11190 of the Health and Safety Code is  
5 amended to read:

6 11190. (a) Every practitioner, other than a pharmacist, who  
7 prescribes or administers a controlled substance classified in  
8 Schedule II shall make a record that, as to the transaction, shows  
9 all of the following:

10 (1) The name and address of the patient.

11 (2) The date.

12 (3) The character, including the name and strength, and  
13 quantity of controlled substances involved.

14 (b) The prescriber's record shall show the pathology and  
15 purpose for which the controlled substance was administered or  
16 prescribed.

17 (c) (1) For each prescription for a ~~Schedule II or Schedule III~~  
18 *Schedule II, Schedule III, or Schedule IV* controlled substance  
19 that is dispensed by a prescriber pursuant to Section 4170 of the  
20 Business and Professions Code, the prescriber shall record and  
21 maintain the following information:

22 (A) Full name, address, and the telephone number of the  
23 ultimate user or research subject, or contact information as  
24 determined by the Secretary of the United States Department of  
25 Health and Human Services, and the gender, and date of birth of  
26 the patient.

27 (B) The prescriber's category of licensure and license number;  
28 federal controlled substance registration number; and the state  
29 medical license number of any prescriber using the federal  
30 controlled substance registration number of a  
31 government-exempt facility.

32 (C) NDC (National Drug Code) number of the controlled  
33 substance dispensed.

34 (D) Quantity of the controlled substance dispensed.

35 (E) ICD-9 (diagnosis code), if available.

36 (F) Number of refills ordered.

37 (G) Whether the drug was dispensed as a refill of a  
38 prescription or as a first-time request.

39 (H) Date of origin of the prescription.

1 (2) Each prescriber that dispenses controlled substances shall  
2 provide the Department of Justice the information required by  
3 this subdivision on a weekly basis in a format set by the  
4 Department of Justice pursuant to regulation.

5 (d) This section shall become operative on January 1, 2005.

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