

AMENDED IN ASSEMBLY APRIL 15, 2015

AMENDED IN ASSEMBLY APRIL 13, 2015

AMENDED IN ASSEMBLY MARCH 24, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 611

Introduced by Assembly Member Dahle

February 24, 2015

An act to amend Section 11165.1 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 611, as amended, Dahle. Controlled substances: prescriptions: reporting.

Existing law requires certain health care practitioners and pharmacists to apply to the Department of Justice to obtain approval to access information contained in the Controlled Substance Utilization Review and Evaluation System (CURES) Prescription Drug Monitoring Program (PDMP) regarding the controlled substance history of a patient under his or her care. Existing law requires the Department of Justice, upon approval of an application, to provide the approved health care practitioner or pharmacist the history of controlled substances dispensed to an individual under his or her care. Existing law authorizes an application to be denied, or a subscriber to be suspended, for specified reasons, including, among others, a subscriber accessing information for any reason other than caring for his or her patients.

This bill would also authorize an individual designated to investigate a holder of a professional license to apply to the Department of Justice to obtain approval to access information contained in the CURES PDMP

regarding the controlled substance history of an applicant or a licensee for the purpose of investigating the alleged substance abuse of a licensee. The bill would, upon approval of an application, require the department to provide to the approved individual the history of controlled substances dispensed to the licensee. The bill would clarify that only a subscriber who is a health care practitioner or a pharmacist may have an application denied or be suspended for accessing subscriber information for any reason other than caring for his or her patients. The bill would also specify that an application may be denied, or a subscriber may be suspended, if a subscriber who has been designated to investigate the holder of a professional license accesses information for any reason other than investigating the holder of a professional license.

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 11165.1 of the Health and Safety Code
2 is amended to read:
3 11165.1. (a) (1) (A) (i) A health care practitioner authorized
4 to prescribe, order, administer, furnish, or dispense Schedule II,
5 Schedule III, or Schedule IV controlled substances pursuant to
6 Section 11150 shall, before January 1, 2016, or upon receipt of a
7 federal Drug Enforcement Administration (DEA) registration,
8 whichever occurs later, submit an application developed by the
9 Department of Justice to obtain approval to access information
10 online regarding the controlled substance history of a patient that
11 is stored on the Internet and maintained within the Department of
12 Justice, and, upon approval, the department shall release to that
13 practitioner the electronic history of controlled substances
14 dispensed to an individual under his or her care based on data
15 contained in the CURES Prescription Drug Monitoring Program
16 (PDMP).
17 (ii) A pharmacist shall, before January 1, 2016, or upon
18 licensure, whichever occurs later, submit an application developed
19 by the Department of Justice to obtain approval to access
20 information online regarding the controlled substance history of
21 a patient that is stored on the Internet and maintained within the
22 Department of Justice, and, upon approval, the department shall
23 release to that pharmacist the electronic history of controlled

1 substances dispensed to an individual under his or her care based
2 on data contained in the CURES PDMP.

3 (iii) (I) An individual designated by a board, bureau, or
4 program within the Department of Consumer Affairs to investigate
5 a holder of a professional license may, for the purpose of
6 investigating the alleged substance abuse of a licensee, submit an
7 application developed by the Department of Justice to obtain
8 approval to access information online regarding the controlled
9 substance history of a licensee that is stored on the Internet and
10 maintained within the Department of Justice, and, upon approval,
11 the department shall release to that individual the electronic history
12 of controlled substances dispensed to the licensee based on data
13 contained in the CURES PDMP. ~~An application for an individual~~
14 ~~designated by a board, bureau, or program that does not regulate~~
15 ~~health care practitioners authorized to prescribe, order, administer,~~
16 ~~furnish, or dispense Schedule II, Schedule III, or Schedule IV~~
17 ~~controlled substances pursuant to Section 11150~~ *The application*
18 *shall contain facts demonstrating the probable cause to believe the*
19 *licensee has violated a law governing controlled substances.*

20 (II) *This clause does not require an individual designated by a*
21 *board, bureau, or program within the Department of Consumer*
22 *Affairs that regulates health care practitioners to submit an*
23 *application to access the information stored within the CURES*
24 *PDMP.*

25 (B) An application may be denied, or a subscriber may be
26 suspended, for reasons which include, but are not limited to, the
27 following:

- 28 (i) Materially falsifying an application for a subscriber.
- 29 (ii) Failure to maintain effective controls for access to the patient
30 activity report.
- 31 (iii) Suspended or revoked federal DEA registration.
- 32 (iv) Any subscriber who is arrested for a violation of law
33 governing controlled substances or any other law for which the
34 possession or use of a controlled substance is an element of the
35 crime.
- 36 (v) Any subscriber described in clause (i) or (ii) of subparagraph
37 (A) accessing information for any other reason than caring for his
38 or her patients.

- 1 (vi) Any subscriber described in clause (iii) of subparagraph
2 (A) accessing information for any other reason than investigating
3 the holder of a professional license.
- 4 (C) Any authorized subscriber shall notify the Department of
5 Justice within 30 days of any changes to the subscriber account.
- 6 (2) A health care practitioner authorized to prescribe, order,
7 administer, furnish, or dispense Schedule II, Schedule III, or
8 Schedule IV controlled substances pursuant to Section 11150 or
9 a pharmacist shall be deemed to have complied with paragraph
10 (1) if the licensed health care practitioner or pharmacist has been
11 approved to access the CURES database through the process
12 developed pursuant to subdivision (a) of Section 209 of the
13 Business and Professions Code.
- 14 (b) Any request for, or release of, a controlled substance history
15 pursuant to this section shall be made in accordance with guidelines
16 developed by the Department of Justice.
- 17 (c) In order to prevent the inappropriate, improper, or illegal
18 use of Schedule II, Schedule III, or Schedule IV controlled
19 substances, the Department of Justice may initiate the referral of
20 the history of controlled substances dispensed to an individual
21 based on data contained in CURES to licensed health care
22 practitioners, pharmacists, or both, providing care or services to
23 the individual.
- 24 (d) The history of controlled substances dispensed to an
25 individual based on data contained in CURES that is received by
26 an authorized subscriber from the Department of Justice pursuant
27 to this section shall be considered medical information subject to
28 the provisions of the Confidentiality of Medical Information Act
29 contained in Part 2.6 (commencing with Section 56) of Division
30 1 of the Civil Code.
- 31 (e) Information concerning a patient's controlled substance
32 history provided to an authorized subscriber pursuant to this section
33 shall include prescriptions for controlled substances listed in
34 Sections 1308.12, 1308.13, and 1308.14 of Title 21 of the Code
35 of Federal Regulations.