



California State Board of Pharmacy

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BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
GOVERNOR EDMUND G. BROWN JR.

December 27, 2018

To: California Licensed Pharmacists and California Pharmacies

In the most recent legislative session, Assembly Bill 1753 (Low) was enacted to require an additional improvement to controlled substance security prescription forms: the addition of a unique serialized number to each form in a format approved by the Department of Justice. This change takes effect January 1, 2019.

Thus, as of January 1, 2019:

- (1) Each controlled substance security prescription form used for prescribing on or after that date must include a unique serialized number in an approved format (Health & Safety Code, § 11162.1, subdivision (a)(15)); and
- (2) No person shall prescribe a controlled substance on or after that date, nor fill, compound, or dispense a prescription for a controlled substance written on or after that date, without this security feature (Health & Safety Code, § 11164, subdivision (a)).

The legislation did not include any transition or grandfathering period to allow for continued use of old controlled substance security prescription forms on or after January 1, 2019. Under the new statutes, the new security forms will be the exclusive means to write paper controlled substance prescriptions as of January 1, 2019, and as of that date any prescription written on a controlled substance security prescription form that does not bear all of the 15 security features will be presumptively invalid.

The board anticipates that some prescribers will nonetheless continue to use old prescription forms on and after January 1, 2019. And that pharmacists and pharmacies will be placed in the uncomfortable position of having to decide between providing needed medications to patients, and compliance with the law.

On or after January 1, 2019, a pharmacist may be presented with a Schedule II, III, IV or V controlled substance prescription written on a security prescription form that was compliant prior to January 1, 2019 but is no longer compliant. This may be especially true for Schedule II prescriptions. In this circumstance, the Enforcement Committee has recommended to the board and to the executive officer that prior to July 1, 2019 the board not make an enforcement priority any investigation or action against a pharmacist who, in the exercise of his or her professional judgment, determines that it is in the best interest of patient or public health or safety to nonetheless fill such prescription.



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The board urges pharmacists and pharmacies to exercise your best judgment in handling these situations, and reminds you of the following possible responses:

- (a) Communicating with the prescriber about the need for a compliant security prescription;
- (b) Advising the prescriber to substitute an electronic prescription;
- (c) Consulting with the prescriber about whether the patient might be terminally ill and eligible for a "11159.2 exemption" prescription under Health and Safety Code section 11159.2;
- (d) Treating prescription orders written on the outdated forms for Schedule III, IV and V medications as oral prescriptions, and verifying the order telephonically with the prescriber's office, pursuant to Health and Safety Code section 11164, subdivision (b);
- (e) Schedule II prescriptions on non-compliant security prescription forms present unique challenges, because of the inability to substitute an oral prescription. It is therefore especially important that pharmacists use their best professional judgment to get needed Schedule II medications to their patients, and the same enforcement priority will be applied to these dispensing decisions until July 1, 2019.
- (f) If failure to dispense may result in loss of life or intense suffering, dispensing pursuant to the emergency situation requirements of Health and Safety Code section 11167, and curing with a compliant controlled substance security prescription form within seven (7) days;
- (g) Refusing to fill the prescription.

Licensees are encouraged to identify prescribers who do not timely begin the transition to the new security prescription forms to the appropriate prescribing board, so that compliance can be encouraged. Use this link to identify the addresses of the respective prescribing boards https://www.dca.ca.gov/about_us/entities.shtml.

For your information, attached is a copy of Health and Safety Code section 11162.1 as it will take effect January 1, 2019. Also attached is a notice released Friday by the California Department of Justice regarding submission of data into CURES.