

11161.5.

(a) Prescription forms for controlled substance prescriptions shall be obtained from security printers approved by the Department of Justice.

(b) The department may approve security printer applications after the applicant has provided the following information:

(1) Name, address, and telephone number of the applicant.

(2) Policies and procedures of the applicant for verifying the identity of the prescriber ordering controlled substance prescription forms.

(3) Policies and procedures of the applicant for verifying delivery of controlled substance prescription forms to prescribers.

(4) (A) The location, names, and titles of the applicant's agent for service of process in this state; all principal corporate officers, if any; all managing general partners, if any; and any individual owner, partner, corporate officer, manager, agent, representative, employee, or subcontractor of the applicant who has direct access to, or management or control of, controlled substance prescription forms.

(B) A report containing this information shall be made on an annual basis and within 30 days after any change of office, principal corporate officers, managing general partner, or of any person described in subparagraph (A).

(5) (A) A signed statement indicating whether the applicant, any principal corporate officer, any managing general partner, or any individual owner, partner, corporate officer, manager, agent, representative, employee, or subcontractor of the applicant who has direct access to, or management or control of, controlled substance prescription forms, has ever been convicted of, or pled no contest to, a violation of any law of a foreign country, the United States, or any state, or of any local ordinance.

(B) The department shall provide the applicant and any individual owner, partner, corporate officer, manager, agent, representative, employee, or subcontractor of the applicant who has direct access to, or management or control of, controlled substance prescription forms, with the means and direction to provide fingerprints and related information, in a manner specified by the department, for the purpose of completing state, federal, or foreign criminal background checks.

(C) Any applicant described in subdivision (b) shall submit his or her fingerprint images and related information to the department, for the purpose of the department obtaining information as to the existence and nature of a record of state, federal, or foreign level convictions and state, federal, or foreign level arrests for which the department establishes that the applicant was released on bail or on his or her own recognizance pending trial, as described in subdivision (l) of Section 11105 of the Penal Code. Requests for federal level criminal offender record information received by the department pursuant to this section shall be forwarded to the Federal Bureau of Investigation by the department.

(D) The department shall assess against each security printer applicant a fee determined by the department to be sufficient to cover all processing, maintenance, and investigative costs generated from or associated with completing state, federal, or foreign background checks and inspections of security printers pursuant to this section with respect to that applicant; the fee shall be paid by the applicant at the time he or she submits the security printer application, fingerprints, and related information to the department.

(E) The department shall retain fingerprint impressions and related information for subsequent arrest notification pursuant to Section 11105.2 of the Penal Code for all applicants.

(c) The department may, within 60 calendar days of receipt of the application from the applicant, deny the security printer application.

(d) The department may deny a security printer application on any of the following grounds:

(1) The applicant, any individual owner, partner, corporate officer, manager, agent, representative, employee, or subcontractor for the applicant, who has direct access, management, or control of controlled substance prescription forms, has been convicted of a crime. A conviction within the meaning of this paragraph means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) The applicant committed any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself, herself, or another, or substantially injure another.

(3) The applicant committed any act that would constitute a violation of this division.

(4) The applicant knowingly made a false statement of fact required to be revealed in the application to produce controlled substance prescription forms.

(5) The department determines that the applicant failed to demonstrate adequate security procedures relating to the production and distribution of controlled substance prescription forms.

(6) The department determines that the applicant has submitted an incomplete application.

(7) As a condition for its approval as a security printer, an applicant shall authorize the Department of Justice to make any examination of the books and records of the applicant, or to visit and inspect the applicant during business hours, to the extent deemed necessary by the board or department to properly enforce this section.

(e) An approved applicant shall submit an exemplar of a controlled substance prescription form, with all security features, to the Department of Justice within 30 days of initial production.

(f) The department shall maintain a list of approved security printers and the department shall make this information available to prescribers and other appropriate government agencies, including the Board of Pharmacy.

(g) Before printing any controlled substance prescription forms, a security printer shall verify with the appropriate licensing board that the prescriber possesses a license and current prescribing privileges which permits the prescribing of controlled substances with the federal Drug Enforcement Administration (DEA).

(h) Controlled substance prescription forms shall be provided directly to the prescriber either in person, by certified mail, or by a means that requires a signature signifying receipt of the package and provision of that signature to the security printer. Controlled substance prescription forms provided in person shall be restricted to established customers. Security printers shall obtain a photo identification from the customer and maintain a log of this information. Controlled substance prescription forms shall be shipped only to the prescriber's address on file and verified with the federal Drug Enforcement Administration or the Medical Board of California.

(i) Security printers shall retain ordering and delivery records in a readily retrievable manner for individual prescribers for three years.

(j) Security printers shall produce ordering and delivery records upon request by an authorized officer of the law as defined in Section 4017 of the Business and Professions Code.

(k) Security printers shall report any theft or loss of controlled substance prescription forms to the Department of Justice via fax or email within 24 hours of the theft or loss.

(l) (1) The department shall impose restrictions, sanctions, or penalties, subject to subdivisions (m) and (n), against security printers who are not in compliance with this division pursuant to regulations implemented pursuant to this division and shall revoke its approval of a security printer for a violation of this division or action that would permit a denial pursuant to subdivision (d) of this section.

(2) When the department revokes its approval, it shall notify the appropriate licensing boards and remove the security printer from the list of approved security printers.

(m) The following violations by security printers shall be punishable pursuant to subdivision (n):

(1) Failure to comply with the Security Printer Guidelines established by the Security Printer Program as a condition of approval.

(2) Failure to take reasonable precautions to prevent any dishonest act or illegal activity related to the access and control of security prescription forms.

(3) Theft or fraudulent use of a prescriber's identity in order to obtain security prescription forms.

(n) A security printer approved pursuant to subdivision (b) shall be subject to the following penalties for actions leading to the denial of a security printer application specified in subdivision (d) or for a violation specified in subdivision (m):

(1) For a first violation, a fine not to exceed one thousand dollars (\$1,000).

(2) For a second or subsequent violation, a fine not to exceed two thousand five hundred dollars (\$2,500) for each violation.

(3) For a third or subsequent violation, a filing of an administrative disciplinary action seeking to suspend or revoke security printer approval.

(o) In order to facilitate the standardization of all prescription forms and the serialization of prescription forms with unique identifiers, the Department of Justice may cease issuing new approvals of security printers to the extent necessary to achieve these purposes. The department may, pursuant to regulation, reduce the number of currently approved security printers to no fewer than three vendors. The department shall ensure that any reduction or limitation of approved security printers does not impact the ability of vendors to meet demand for prescription forms.