

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN ASSEMBLY JUNE 26, 2013

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE MAY 14, 2013

AMENDED IN SENATE MAY 1, 2013

SENATE BILL

No. 809

Introduced by Senators DeSaulnier and Steinberg
(Coauthors: Senators Hancock, Lieu, Pavley, and Price)
(Coauthor: Assembly Member Blumenfield)

February 22, 2013

An act to add Sections ~~805.8~~ 208, 209, and 2196.8 to the Business and Professions Code, and to amend Sections 11164.1, 11165, and 11165.1 of, and to add Section 11165.4 to, the Health and Safety Code, relating to controlled ~~substances, and declaring the urgency thereof, to take effect immediately.~~ *substances*.

LEGISLATIVE COUNSEL'S DIGEST

SB 809, as amended, DeSaulnier. Controlled substances: reporting.

(1) Existing law classifies certain controlled substances into designated schedules. Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances.

Existing law requires dispensing pharmacies and clinics to report, on a weekly basis, specified information for each prescription of Schedule II, Schedule III, or Schedule IV controlled substances, to the department, as specified.

This bill would establish the CURES Fund within the State Treasury to receive funds to be allocated, upon appropriation by the Legislature, to the Department of Justice for the purposes of funding CURES, and would make related findings and declarations.

~~This bill would require the Medical Board of California, the Dental Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the Board of Registered Nursing, the Physician Assistant Committee of the Medical Board of California, the Osteopathic Medical Board of California, the Naturopathic Medicine Committee of the Osteopathic Medical Board of California, the State Board of Optometry, and the California Board of Podiatric Medicine to charge practitioners under their supervision who are authorized to prescribe, order, administer, furnish, or dispense controlled substances a fee of up to 1.16% of the renewal fee that the licensee was subject to as of July 1, 2013, an annual fee of \$6 to be assessed on specified licensees, including licensees authorized to prescribe, order, administer, furnish, or dispense controlled substances, and require the regulating agency of each of those licensees to bill and collect that fee at the time of license renewal. The bill would authorize the Department of Consumer Affairs to reduce, by regulation, that fee to the reasonable cost of operating and maintaining CURES for the purpose of regulating those licensees, if the reasonable regulatory cost is less than \$6 per licensee. The bill would require the proceeds of which would the fee to be deposited into the CURES Fund for the support of CURES, as specified. This bill would also require the California State Board of Pharmacy to charge wholesalers, nonresident wholesalers, and veterinary food-animal drug retailers under their supervision a fee of up to 1.16% of the renewal fee that the wholesaler, nonresident wholesaler, or veterinary food-animal drug retailer was subject to as of July 1, 2013, the proceeds of which would be deposited into the CURES Fund for support of CURES, as specified. The bill would require each of these fees to be due and payable at the time the license is renewed and require the fee to be submitted with the renewal fee. The bill would also permit specified insurers, health care service plans, and qualified manufacturers, and other donors to voluntarily contribute to the CURES Fund, as described.~~

(2) Existing law requires the Medical Board of California to periodically develop and disseminate information and educational materials regarding various subjects, including pain management techniques, to each licensed physician and surgeon and to each general acute care hospital in California.

This bill would additionally require the board to periodically develop and disseminate to each licensed physician and surgeon and to each general acute care hospital in California information and educational materials relating to the assessment of a patient's risk of abusing or diverting controlled substances and information relating to CURES.

(3) Existing law permits a licensed health care practitioner, as specified, or a pharmacist to apply to the Department of Justice to obtain approval to access information stored on the Internet regarding the controlled substance history of a patient under his or her care. Existing law also authorizes the Department of Justice to provide the history of controlled substances dispensed to an individual to licensed health care practitioners, pharmacists, or both, providing care or services to the individual.

~~This bill would require licensed health care practitioners, require, by January 1, 2016, or upon receipt of a federal Drug Enforcement Administration registration, whichever occurs later, health care practitioners authorized to prescribe, order, administer, furnish, or dispense controlled substances, as specified, and pharmacists to apply to the Department of Justice to obtain approval to access information stored on the Internet regarding the controlled substance history of a patient under his or her care, and, upon the happening of specified events, to be strongly encouraged to access and consult that information prior to prescribing or dispensing Schedule II, Schedule III, or Schedule IV controlled substances: their care. The bill would require the Department of Justice, in conjunction with the Department of Consumer Affairs and certain licensing boards, to, among other things, develop a streamlined application and approval process to provide access to the CURES database for licensed health care practitioners and pharmacists.~~ The bill would make other related and conforming changes.

~~(4) This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -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. The Legislature finds and declares all of the
 2 following:
- 3 (a) The Controlled Substance Utilization Review and Evaluation
 4 System (CURES) is a valuable preventive, investigative, and
 5 educational tool for health care providers, ~~regulatory boards,~~
 6 *regulatory agencies*, educational researchers, and law enforcement.
 7 Recent budget cuts to the Attorney General’s Division of Law
 8 Enforcement have resulted in insufficient funding to support ~~the~~
 9 CURES *and its* Prescription Drug Monitoring Program (PDMP).
 10 The CURES PDMP is necessary to ensure health care professionals
 11 have the necessary data to make informed treatment decisions and
 12 to allow law enforcement to investigate diversion of prescription
 13 drugs. Without a dedicated funding source, the CURES PDMP is
 14 not sustainable.
- 15 (b) Each year CURES responds to more than 800,000 requests
 16 from practitioners and pharmacists regarding all of the following:
- 17 (1) Helping identify and deter drug abuse and diversion of
 18 prescription drugs through accurate and rapid tracking of Schedule
 19 II, Schedule III, and Schedule IV controlled substances.
- 20 (2) Helping practitioners make ~~better~~ prescribing decisions.
- 21 (3) Helping reduce misuse, abuse, and trafficking of those drugs.
- 22 (c) Schedule II, Schedule III, and Schedule IV controlled
 23 substances have had deleterious effects on private and public
 24 interests, including the misuse, abuse, and trafficking in dangerous
 25 prescription medications resulting in injury and death. It is the
 26 intent of the Legislature to work with stakeholders to fully fund
 27 the operation of CURES which seeks to mitigate those deleterious
 28 effects and serve as a tool for ensuring safe patient care, and which
 29 has proven to be a cost-effective tool to help reduce the misuse,
 30 abuse, and trafficking of those drugs.
- 31 (d) The following goals are critical to increase the effectiveness
 32 and functionality of CURES:
- 33 (1) Upgrading the CURES PDMP so that it is capable of
 34 accepting real-time updates and is accessible in real-time, 24 hours
 35 a day, seven days a week.
- 36 (2) Upgrading ~~all prescription drug monitoring programs~~ *the*
 37 CURES PDMP in California so that ~~they are~~ *it is* capable of

1 operating in conjunction with all national prescription drug
2 monitoring programs.

3 (3) Providing subscribers to prescription drug monitoring
4 programs access to information relating to controlled substances
5 dispensed in California, including those dispensed through the
6 United States Department of Veterans Affairs, the Indian Health
7 Service, the Department of Defense, and any other entity with
8 authority to dispense controlled substances in California.

9 (4) Upgrading the CURES PDMP so that it is capable of
10 accepting *the reporting of* electronic prescriptions, *prescription*
11 *data*, thereby enabling more reliable, complete, and timely
12 prescription monitoring.

13 ~~SEC. 2. Section 805.8 is added to the Business and Professions~~
14 ~~Code, to read:~~

15 ~~805.8. (a) (1) In addition to the fees charged for licensure,~~
16 ~~certification, and renewal, at the time those fees are charged, the~~
17 ~~Medical Board of California, the Dental Board of California, the~~
18 ~~California State Board of Pharmacy, the Veterinary Medical Board,~~
19 ~~the Board of Registered Nursing, the Physician Assistant~~
20 ~~Committee of the Medical Board of California, the Osteopathic~~
21 ~~Medical Board of California, the Naturopathic Medicine Committee~~
22 ~~of the Osteopathic Medical Board of California, the State Board~~
23 ~~of Optometry, and the California Board of Podiatric Medicine shall~~
24 ~~charge each licensee authorized pursuant to Section 11150 of the~~
25 ~~Health and Safety Code to prescribe, order, administer, furnish,~~
26 ~~or dispense Schedule II, Schedule III, or Schedule IV controlled~~
27 ~~substances a fee of up to 1.16 percent of the renewal fee that the~~
28 ~~licensee was subject to as of July 1, 2013, to be assessed annually.~~
29 ~~This fee shall be due and payable at the time the licensee renews~~
30 ~~his or her license and shall be submitted with the licensee's renewal~~
31 ~~fee. In no case shall this fee exceed the reasonable costs associated~~
32 ~~with operating and maintaining CURES for the purpose of~~
33 ~~regulating prescribers and dispensers of controlled substances~~
34 ~~licensed or certificated by these boards.~~

35 ~~(2) In addition to the fees charged for licensure, certification,~~
36 ~~and renewal, at the time those fees are charged, the California State~~
37 ~~Board of Pharmacy shall charge wholesalers and nonresident~~
38 ~~wholesalers of dangerous drugs, licensed pursuant to Article 11~~
39 ~~(commencing with Section 4160) of Chapter 9, a fee of up to 1.16~~
40 ~~percent of the renewal fee that the wholesaler or nonresident~~

1 wholesaler was subject to as of July 1, 2013, to be assessed
2 annually. This fee shall be due and payable at the time the
3 wholesaler or nonresident wholesaler renews its license and shall
4 be submitted with the wholesaler's or nonresident wholesaler's
5 renewal fee. In no case shall this fee exceed the reasonable costs
6 associated with operating and maintaining CURES for the purpose
7 of regulating wholesalers and nonresident wholesalers of dangerous
8 drugs licensed or certificated by that board.

9 (3) In addition to the fees charged for licensure, certification,
10 and renewal, at the time those fees are charged, the California State
11 Board of Pharmacy shall charge veterinary food-animal drug
12 retailers, licensed pursuant to Article 15 (commencing with Section
13 4196) of Chapter 9, a fee of up to 1.16 percent of the renewal fee
14 that the drug retailer was subject to as of July 1, 2013, to be
15 assessed annually. This fee shall be due and payable at the time
16 the drug retailer renews its license and shall be submitted with the
17 drug retailers' renewal fee. In no case shall this fee exceed the
18 reasonable costs associated with operating and maintaining CURES
19 for the purpose of regulating veterinary food-animal drug retailers
20 licensed or certificated by that board.

21 (b) The funds collected pursuant to subdivision (a) shall be
22 deposited in the CURES accounts, which are hereby created, within
23 the Contingent Fund of the Medical Board of California, the State
24 Dentistry Fund, the Pharmacy Board Contingent Fund, the
25 Veterinary Medical Board Contingent Fund, the Board of
26 Registered Nursing Fund, the Naturopathic Doctor's Fund, the
27 Osteopathic Medical Board of California Contingent Fund, the
28 Optometry Fund, and the Board of Podiatric Medicine Fund.
29 Moneys in the CURES accounts of each of those funds shall, upon
30 appropriation by the Legislature, be available to the Department
31 of Justice solely for operating and maintaining CURES for the
32 purposes of regulating prescribers and dispensers of controlled
33 substances. All moneys received by the Department of Justice
34 pursuant to this section shall be deposited in the CURES Fund
35 described in Section 11165 of the Health and Safety Code.

36 *SEC. 2. Section 208 is added to the Business and Professions*
37 *Code, to read:*

38 *208. (a) A CURES fee of six dollars (\$6) shall be assessed*
39 *annually on each of the licensees specified in subdivision (b) to*
40 *pay the reasonable costs associated with operating and maintaining*

1 CURES for the purpose of regulating those licensees. The fee
2 assessed pursuant to this subdivision shall be billed and collected
3 by the regulating agency of each licensee at the time of the
4 licensee's license renewal. If the reasonable regulatory cost of
5 operating and maintaining CURES is less than six dollars (\$6)
6 per licensee, the Department of Consumer Affairs may, by
7 regulation, reduce the fee established by this section to the
8 reasonable regulatory cost.

9 (b) (1) Licensees authorized pursuant to Section 11150 of the
10 Health and Safety Code to prescribe, order, administer, furnish,
11 or dispense Schedule II, Schedule III, or Schedule IV controlled
12 substances or pharmacists licensed pursuant to Chapter 9
13 (commencing with Section 4000) of Division 2.

14 (2) Wholesalers and nonresident wholesalers of dangerous
15 drugs licensed pursuant to Article 11 (commencing with Section
16 4160) of Chapter 9 of Division 2.

17 (3) Nongovernmental clinics licensed pursuant to Article 13
18 (commencing with Section 4180) and Article 14 (commencing with
19 Section 4190) of Chapter 9 of Division 2.

20 (4) Nongovernmental pharmacies licensed pursuant to Article
21 7 (commencing with Section 4110) of Chapter 9 of Division 2.

22 (c) The funds collected pursuant to subdivision (a) shall be
23 deposited in the CURES Fund, which is hereby created within the
24 State Treasury. Moneys in the CURES Fund shall, upon
25 appropriation by the Legislature, be available to the Department
26 of Consumer Affairs to reimburse the Department of Justice for
27 costs to operate and maintain CURES for the purposes of
28 regulating the licensees specified in subdivision (b).

29 (d) The Department of Consumer Affairs shall contract with
30 the Department of Justice on behalf of the Medical Board of
31 California, the Dental Board of California, the California State
32 Board of Pharmacy, the Veterinary Medical Board, the Board of
33 Registered Nursing, the Physician Assistant Board of the Medical
34 Board of California, the Osteopathic Medical Board of California,
35 the Naturopathic Medicine Committee of the Osteopathic Medical
36 Board, the State Board of Optometry, and the California Board
37 of Podiatric Medicine to operate and maintain CURES for the
38 purposes of regulating the licensees specified in subdivision (b).

39 SEC. 3. Section 209 is added to the Business and Professions
40 Code, to read:

1 209. *The Department of Justice, in conjunction with the*
 2 *Department of Consumer Affairs and the boards and committees*
 3 *identified in subdivision (d) of Section 208, shall do all of the*
 4 *following:*

5 (a) *Identify and implement a streamlined application and*
 6 *approval process to provide access to the CURES Prescription*
 7 *Drug Monitoring Program (PDMP) database for licensed health*
 8 *care practitioners eligible to prescribe Schedule II, Schedule III,*
 9 *or Schedule IV controlled substances and for pharmacists. Every*
 10 *reasonable effort shall be made to implement a streamlined*
 11 *application and approval process that a licensed health care*
 12 *practitioner or pharmacist can complete at the time that he or she*
 13 *is applying for licensure or renewing his or her license.*

14 (b) *Identify necessary procedures to enable licensed health care*
 15 *practitioners and pharmacists with access to the CURES PDMP*
 16 *to delegate their authority to order reports from the CURES*
 17 *PDMP.*

18 (c) *Develop a procedure to enable health care practitioners*
 19 *who do not have a federal Drug Enforcement Administration (DEA)*
 20 *number to opt out of applying for access to the CURES PDMP.*

21 ~~SEC. 3.~~

22 *SEC. 4.* Section 2196.8 is added to the Business and Professions
 23 Code, to read:

24 2196.8. The board shall periodically develop and disseminate
 25 information and educational material regarding assessing a patient's
 26 risk of abusing or diverting controlled substances and information
 27 relating to the Controlled Substance Utilization Review and
 28 Evaluation System (CURES), described in Section 11165 of the
 29 Health and Safety Code, to each licensed physician and surgeon
 30 and to each general acute care hospital in this state. The board
 31 shall consult with the State Department of ~~Health-Care Services~~
 32 *Public Health, the boards and committees specified in subdivision*
 33 *(d) of Section 208, and the Department of Justice in developing*
 34 *the materials to be distributed pursuant to this section.*

35 ~~SEC. 4.~~

36 *SEC. 5.* Section 11164.1 of the Health and Safety Code is
 37 amended to read:

38 11164.1. (a)—(1) Notwithstanding any other provision of law,
 39 a prescription for a controlled substance issued by a prescriber in
 40 another state for delivery to a patient in another state may be

1 dispensed by a California pharmacy, if the prescription conforms
2 with the requirements for controlled substance prescriptions in the
3 state in which the controlled substance was prescribed.

4 (2)

5 (b) All prescriptions for Schedule ~~H~~ and ~~II~~, Schedule ~~III~~ ~~III~~, and
6 *Schedule IV* controlled substances dispensed pursuant to this
7 subdivision shall be reported by the dispensing pharmacy to the
8 Department of Justice in the manner prescribed by subdivision ~~(e)~~
9 *(d)* of Section 11165.

10 ~~(b) Pharmacies may dispense prescriptions for Schedule III,~~
11 ~~Schedule IV, and Schedule V controlled substances from~~
12 ~~out-of-state prescribers pursuant to Section 4005 of the Business~~
13 ~~and Professions Code and Section 1717 of Title 16 of the California~~
14 ~~Code of Regulations.~~

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

16 ~~SEC. 5.~~

17 *SEC. 6.* Section 11165 of the Health and Safety Code is
18 amended to read:

19 11165. (a) To assist health care practitioners in their efforts
20 to ensure appropriate prescribing, ordering, administering,
21 furnishing, and dispensing of controlled substances, law
22 enforcement and regulatory agencies in their efforts to control the
23 diversion and resultant abuse of Schedule II, Schedule III, and
24 Schedule IV controlled substances, and for statistical analysis,
25 education, and research, the Department of Justice shall, contingent
26 upon the availability of adequate funds in ~~the CURES accounts~~
27 ~~within the Contingent Fund of the Medical Board of California,~~
28 ~~the Pharmacy Board Contingent Fund, the State Dentistry Fund,~~
29 ~~the Board of Registered Nursing Fund, the Naturopathic Doctor's~~
30 ~~Fund, the Osteopathic Medical Board of California Contingent~~
31 ~~Fund, the Veterinary Medical Board Contingent Fund, the~~
32 ~~Optometry Fund, the Board of Podiatric Medicine Fund, and the~~
33 ~~CURES Fund,~~ maintain the Controlled Substance Utilization
34 Review and Evaluation System (CURES) for the electronic
35 monitoring of, and Internet access to information regarding, the
36 prescribing and dispensing of Schedule II, Schedule III, and
37 Schedule IV controlled substances by all practitioners authorized
38 to prescribe, order, administer, furnish, or dispense these controlled
39 substances.

1 ~~(b) The reporting of Schedule III and Schedule IV controlled~~
2 ~~substance prescriptions to CURES shall be contingent upon the~~
3 ~~availability of adequate funds for the Department of Justice for~~
4 ~~the purpose of funding CURES.~~

5 ~~(e)~~

6 ~~(b) The Department of Justice may seek and use grant funds to~~
7 ~~pay the costs incurred by the operation and maintenance of~~
8 ~~CURES. The department shall annually report to the Legislature~~
9 ~~and make available to the public the amount and source of funds~~
10 ~~it receives for support of CURES. Grant funds shall not be~~
11 ~~appropriated from the Contingent Fund of the Medical Board of~~
12 ~~California, the Pharmacy Board Contingent Fund, the State~~
13 ~~Dentistry Fund, the Board of Registered Nursing Fund, the~~
14 ~~Naturopathic Doctor's Fund, the Osteopathic Medical Board of~~
15 ~~California Contingent Fund, the Veterinary Medical Board~~
16 ~~Contingent Fund, the Optometry Fund, or the Board of Podiatric~~
17 ~~Medicine Fund, for the purpose of funding CURES.~~

18 ~~(d)~~

19 ~~(c) (1) The operation of CURES shall comply with all~~
20 ~~applicable federal and state privacy and security laws and~~
21 ~~regulations.~~

22 ~~(2) CURES shall operate under existing provisions of law to~~
23 ~~safeguard the privacy and confidentiality of patients. Data obtained~~
24 ~~from CURES shall only be provided to appropriate state, local,~~
25 ~~and federal public agencies for disciplinary, civil, or criminal~~
26 ~~purposes and to other agencies or entities, as determined by the~~
27 ~~Department of Justice, for the purpose of educating practitioners~~
28 ~~and others in lieu of disciplinary, civil, or criminal actions. Data~~
29 ~~may be provided to public or private entities, as approved by the~~
30 ~~Department of Justice, for educational, peer review, statistical, or~~
31 ~~research purposes, provided that patient information, including~~
32 ~~any information that may identify the patient, is not compromised.~~
33 ~~Further, data disclosed to any individual or agency as described~~
34 ~~in this subdivision shall not be disclosed, sold, or transferred to~~
35 ~~any third party. The Department of Justice ~~may shall~~ establish~~
36 ~~policies, procedures, and regulations regarding the use, access,~~
37 ~~evaluation, management, implementation, operation, storage,~~
38 ~~disclosure, and security of the information within CURES,~~
39 ~~consistent with this subdivision.~~

40 ~~(e)~~

1 (d) For each prescription for a Schedule II, Schedule III, or
2 Schedule IV controlled substance, as defined in the controlled
3 substances schedules in federal law and regulations, specifically
4 Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21
5 of the Code of Federal Regulations, the dispensing pharmacy,
6 clinic, or other dispenser shall report the following information to
7 the Department of Justice as soon as reasonably possible, but not
8 more than seven days after the date a controlled substance is
9 dispensed, ~~unless monthly reporting is permitted pursuant to~~
10 ~~subdivision (f) of Section 11190, and in a format specified by the~~
11 Department of Justice:

12 (1) Full name, address, and telephone number of the ultimate
13 user or research subject, or contact information as determined by
14 the Secretary of the United States Department of Health and Human
15 Services, and the gender, and date of birth of the ultimate user.

16 (2) The prescriber's category of licensure and license number,
17 *licensure, national provider identifier (NPI) number*, the federal
18 controlled substance registration number, and the state medical
19 license number of any prescriber using the federal controlled
20 substance registration number of a government-exempt facility.

21 (3) Pharmacy prescription number, license number, *NPI number*,
22 and federal controlled substance registration number.

23 (4) National Drug Code (NDC) number of the controlled
24 substance dispensed.

25 (5) Quantity of the controlled substance dispensed.

26 (6) International Statistical Classification of Diseases, 9th
27 revision (ICD-9) or 10th revision (ICD-10) Code, if available.

28 (7) Number of refills ordered.

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

31 (9) Date of origin of the prescription.

32 (10) Date of dispensing of the prescription.

33 ~~(f)~~

34 (e) The Department of Justice may invite stakeholders to assist,
35 advise, and make recommendations on the establishment of rules
36 and regulations necessary to ensure the proper administration and
37 enforcement of the CURES database. All prescriber *and dispenser*
38 invitees shall be licensed by one of the boards or committees
39 identified in subdivision ~~(a) of Section 805.8~~ (d) of Section 208 of

1 the Business and Professions Code, in active practice in California,
 2 and a regular user of CURES.

3 ~~(g)~~

4 (f) The Department of Justice shall, prior to upgrading CURES,
 5 consult with prescribers licensed by one of the boards or
 6 committees identified in subdivision ~~(a)~~ of ~~Section 805.8 (d) of~~
 7 *Section 208* of the Business and Professions Code, one or more of
 8 the ~~regulatory~~ boards or committees identified in subdivision ~~(a)~~
 9 of ~~Section 805.8 (d) of Section 208~~ of the Business and Professions
 10 Code, and any other stakeholder identified by the department, for
 11 the purpose of identifying desirable capabilities and upgrades to
 12 the CURES Prescription Drug Monitoring Program (*PDMP*).

13 ~~(h)~~

14 (g) The Department of Justice may establish a process to educate
 15 authorized subscribers of *the CURES PDMP* on how to access
 16 and use *the CURES PDMP*.

17 ~~(i) The CURES Fund is hereby established within the State~~
 18 ~~Treasury. The CURES Fund shall consist of all funds made~~
 19 ~~available to the Department of Justice for the purpose of funding~~
 20 ~~CURES. Money in the CURES Fund shall, upon appropriation by~~
 21 ~~the Legislature, be available for allocation to the Department of~~
 22 ~~Justice for the purpose of funding CURES.~~

23 ~~SEC. 6.~~

24 *SEC. 7.* Section 11165.1 of the Health and Safety Code is
 25 amended to read:

26 11165.1. (a) (1) A ~~licensed~~ health care practitioner ~~eligible~~
 27 ~~to prescribe~~ *authorized to prescribe, order, administer, furnish,*
 28 *or dispense* Schedule II, Schedule III, or Schedule IV controlled
 29 substances *pursuant to Section 11150* or a pharmacist ~~shall~~ *shall,*
 30 *before January 1, 2016, or upon receipt of a federal Drug*
 31 *Enforcement Administration (DEA) registration, whichever occurs*
 32 *later*, submit an application developed by the Department of Justice
 33 to obtain approval to access information online regarding the
 34 controlled substance history of a patient that is stored on the
 35 Internet and maintained within the Department of Justice, and,
 36 upon approval, the department shall release to that practitioner or
 37 pharmacist the electronic history of controlled substances dispensed
 38 to an individual under his or her care based on data contained in
 39 the CURES Prescription Drug Monitoring Program (*PDMP*).

1 (A) An application may be denied, or a subscriber may be
2 suspended, for reasons which include, but are not limited to, the
3 following:

- 4 (i) Materially falsifying an application for a subscriber.
- 5 (ii) Failure to maintain effective controls for access to the patient
6 activity report.
- 7 (iii) Suspended or revoked federal ~~Drug Enforcement~~
8 ~~Administration (DEA)~~ DEA registration.
- 9 (iv) Any subscriber who is arrested for a violation of law
10 governing controlled substances or any other law for which the
11 possession or use of a controlled substance is an element of the
12 crime.
- 13 (v) Any subscriber accessing information for any other reason
14 than caring for his or her patients.

15 (B) Any authorized subscriber shall notify the Department of
16 Justice within 30 days of any changes to the subscriber account.

17 ~~(2) To allow sufficient time for licensed health care practitioners~~
18 ~~eligible to prescribe Schedule II, Schedule III, or Schedule IV~~
19 ~~controlled substances and a pharmacist to apply and receive access~~
20 ~~to PDMP, a written request may be made, until July 1, 2012, and~~
21 ~~the Department of Justice may release to that practitioner or~~
22 ~~pharmacist the history of controlled substances dispensed to an~~
23 ~~individual under his or her care based on data contained in CURES.~~

24 *(2) A health care practitioner authorized to prescribe Schedule*
25 *II, Schedule III, or Schedule IV controlled substances pursuant to*
26 *Section 11150 or a pharmacist shall be deemed to have complied*
27 *with paragraph (1) if the licensed health care practitioner or*
28 *pharmacist has been approved to access the CURES database*
29 *through the process developed pursuant to subdivision (a) of*
30 *Section 209 of the Business and Professions Code.*

31 (b) Any request for, or release of, a controlled substance history
32 pursuant to this section shall be made in accordance with guidelines
33 developed by the Department of Justice.

34 (c) ~~(1) Until the Department of Justice has issued the~~
35 ~~notification described in paragraph (3), in~~ *In* order to prevent the
36 inappropriate, improper, or illegal use of Schedule II, Schedule
37 III, or Schedule IV controlled substances, the Department of Justice
38 may initiate the referral of the history of controlled substances
39 dispensed to an individual based on data contained in CURES to

1 licensed health care practitioners, pharmacists, or both, providing
2 care or services to the individual.

3 ~~(2) Upon the Department of Justice issuing the notification~~
4 ~~described in paragraph (3), licensed health care practitioners~~
5 ~~eligible to prescribe Schedule II, Schedule III, or Schedule IV~~
6 ~~controlled substances and pharmacists shall be strongly encouraged~~
7 ~~to access and consult the electronic history of controlled substances~~
8 ~~dispensed to an individual under his or her care prior to prescribing~~
9 ~~or dispensing a Schedule II, Schedule III, or Schedule IV controlled~~
10 ~~substance.~~

11 ~~(3) The Department of Justice shall notify licensed health care~~
12 ~~practitioners and pharmacists who have submitted the application~~
13 ~~required pursuant to subdivision (a) when the department~~
14 ~~determines that CURES is capable of accommodating all users,~~
15 ~~but not before June 1, 2015. The department shall provide a copy~~
16 ~~of the notification to the Secretary of State, the Secretary of the~~
17 ~~Senate, the Chief Clerk of the Assembly, and the Legislative~~
18 ~~Counsel, and shall post the notification on the department's Internet~~
19 ~~Web site.~~

20 (d) The history of controlled substances dispensed to an
21 individual based on data contained in CURES that is received by
22 a practitioner or pharmacist from the Department of Justice
23 pursuant to this section shall be considered medical information
24 subject to the provisions of the Confidentiality of Medical
25 Information Act contained in Part 2.6 (commencing with Section
26 56) of Division 1 of the Civil Code.

27 (e) Information concerning a patient's controlled substance
28 history provided to a prescriber or pharmacist pursuant to this
29 section shall include prescriptions for controlled substances listed
30 in Sections 1308.12, 1308.13, and 1308.14 of Title 21 of the Code
31 of Federal Regulations.

32 ~~SEC. 7.~~

33 *SEC. 8.* Section 11165.4 is added to the Health and Safety
34 Code, to read:

35 11165.4. (a) The Department of Justice may seek *voluntarily*
36 *contributed* private funds from insurers, health care service plans,
37 ~~and qualified manufacturers~~ *manufacturers, and other donors* for
38 the purpose of supporting CURES. Insurers, health care service
39 plans, ~~and qualified manufacturers~~ *manufacturers, and other*
40 *donors* may contribute by submitting their payment to the

1 Controller for deposit into the CURES Fund established pursuant
2 to subdivision (e) of Section 11165. (c) of Section 208 of the
3 *Business and Professions Code*. The department shall make
4 information about the amount and the source of all private funds
5 it receives for support of CURES available to the public.
6 Contributions to the CURES Fund pursuant to this subdivision
7 shall be nondeductible for state tax purposes.

8 (b) For purposes of this section, the following definitions apply:

9 (1) “Controlled substance” means a drug, substance, or
10 immediate precursor listed in any schedule in Section 11055,
11 11056, or 11057 of the Health and Safety Code.

12 (2) “Health care service plan” means an entity licensed pursuant
13 to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter
14 2.2 (commencing with Section 1340) of Division 2 of the Health
15 and Safety Code).

16 (3) “Insurer” means an admitted insurer writing health insurance,
17 as defined in Section 106 of the Insurance Code, and an admitted
18 insurer writing workers’ compensation insurance, as defined in
19 Section 109 of the Insurance Code.

20 (4) “Qualified manufacturer” means a manufacturer of a
21 controlled substance, but does not mean a wholesaler or nonresident
22 wholesaler of dangerous drugs, regulated pursuant to Article 11
23 (commencing with Section 4160) of Chapter 9 of Division 2 of
24 the Business and Professions Code, a veterinary food-animal drug
25 retailer, regulated pursuant to Article 15 (commencing with Section
26 4196) of Chapter 9 of Division 2 of the Business and Professions
27 Code, or an individual regulated by the Medical Board of
28 California, the Dental Board of California, the California State
29 Board of Pharmacy, the Veterinary Medical Board, the Board of
30 Registered Nursing, the Physician Assistant Committee of the
31 Medical Board of California, the Osteopathic Medical Board of
32 California, the State Board of Optometry, or the California Board
33 of Podiatric Medicine.

34 ~~SEC. 8. This act is an urgency statute necessary for the~~
35 ~~immediate preservation of the public peace, health, or safety within~~
36 ~~the meaning of Article IV of the Constitution and shall go into~~
37 ~~immediate effect. The facts constituting the necessity are:~~

38 ~~In order to protect the public from the continuing threat of~~
39 ~~prescription drug abuse at the earliest possible time, it is necessary~~
40 ~~that this act take effect immediately.~~

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