

## Health and Safety Code section 11165.4

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### REQUIREMENTS

- Requires a health care practitioner that is authorized to prescribe, order, administer or furnish a controlled substance to consult the CURES database to review a patient's controlled substance history before prescribing a Schedule II, III or IV controlled substance for the first time to that patient and at least once every four months thereafter, if the prescribed controlled substance remains part of the patient's treatment.
- Requires a health care practitioner to obtain a patient's controlled substance history from the CURES database no earlier than 24 hours before the medication is prescribed, ordered, administered, furnished or dispensed.
- If a health care practitioner is exempted from checking CURES before prescribing a controlled substance for the first time pursuant to this bill, they are required to consult CURES before subsequently prescribing a controlled substance to the patient at least every four months thereafter if the substance remains part of the treatment of the patient.
- This bill defines "first time" to mean the initial occurrence in which a health care practitioner intends to prescribe, order, administer, furnish or dispense a Schedule II, III, or IV controlled substance to a patient and has not previously prescribed a controlled substance to that patient.
- This bill specifies that it is not operative until six months after DOJ certifies that the CURES database is ready for statewide use and that DOJ has adequate staff, which, at a minimum, shall be consistent with the appropriation authorized in the Budget Act of 2016. This bill requires DOJ to notify the Secretary of State and the Office of Legislative Counsel of the date of that certification.
- This bill specifies that if a health care practitioner fails to consult the CURES database, he or she shall be referred to the appropriate state professional licensing board solely for administrative sanctions, as deemed appropriate by that board.

### EXEMPTIONS

- This bill specifies that the requirement to consult the CURES database does not apply to a health care practitioner in any of the following circumstances:
  - If a health care practitioner prescribes, orders, or furnishes a controlled substance to be administered to a patient while the patient is admitted to any of the following facilities or during an emergency transfer between any of the following facilities for use while on facility premises:
    - A licensed clinic,
    - An outpatient setting,
    - A health facility, or
    - A county medical facility.
  - If a health care practitioner prescribes, orders, administers, or furnishes a controlled substance in the emergency department of a general acute care hospital if the quantity of the controlled substance does not exceed a non-refillable seven-day supply of the controlled substance, to be used in accordance with the directions for use.

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- If a health care practitioner prescribes, orders, administers, or furnishes a controlled substance to a patient as part of the patient's treatment for a surgical procedure, if the quantity of the controlled substance does not exceed a non-refillable five-day supply and is in a licensed clinic, an outpatient setting, a health facility, a county medical facility or a place of practice.
- If a health care practitioner prescribes, orders, administers, or furnishes a controlled substance to a patient currently receiving hospice care.
- If all of the following circumstances are satisfied:
  - It is not reasonably possible for a health care practitioner to access the information in the CURES database in a timely manner.
  - Another health care practitioner or designee authorized to access CURES is not reasonably available.
  - The quantity of controlled substance does not exceed a non-refillable five-day supply, to be used in accordance with the directions for use and no refill of the controlled substance is allowed.

***Note: If a health care practitioner falls under this exemption, he or she must document the reason CURES was not consulted in the patient's medical record.***

- If the CURES database is not operational, as determined by DOJ, or when it cannot be accessed by a health care practitioner because of a temporary technological or electrical failure. A health care practitioner shall, without undue delay, seek to correct any cause of the failure that is reasonably within his or her control.
- If the CURES database cannot be accessed because of technological limitations that are not reasonably within the control of the health care practitioner.
- If consultation of the CURES database would, as determined by the health care practitioner, result in a patient's inability to obtain a prescription in a timely manner and thereby adversely impact the patient's medical condition, provided that the quantity of the controlled substance does not exceed a non-refillable five-day supply if the controlled substance were used in accordance with the directions for use.

### PROTECTIONS

- This bill specifies that a prescriber, pharmacist, or any person acting on their behalf, when acting with reasonable care and in good faith, is not subject to civil or administrative liability arising from any false, incomplete, inaccurate or misattributed information submitted to, reported by or relied upon in the CURES database or for any resulting failure of the CURES database to accurately or timely report that information.
- This bill specifies that it does not create a private cause of action against a health care practitioner and does not limit a health care practitioner's liability for the negligent failure to diagnose or treat a patient.
- This bill specifies that the provisions of the bill are severable and if any provision is held invalid, that invalidity shall not affect other provisions of this bill.