

Date of Hearing: April 4, 2017

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Rudy Salas, Chair
AB 40 (Santiago) – As Introduced December 5, 2016

NOTE: This bill adds an urgency clause.

SUBJECT: CURES database: health information technology system.

SUMMARY: Requires the California Department of Justice (DOJ) to make the Controlled Substance Utilization Review and Evaluation System (CURES) more readily available to prescribing health care practitioners, through a web site or software system. Authorizes the DOJ to require entities utilizing the system to enter into a memorandum of understanding setting forth terms and conditions for use of CURES and to conduct audits of any authorized technology system integrated with CURES.

EXISTING LAW:

- 1) Directs the DOJ to maintain CURES for the purpose of tracking and ensuring the appropriate dispensing and prescribing of Schedule II, Schedule III, and Schedule IV controlled substances. (Health and Safety Code (HSC) Section 11165)
- 2) Directs health care practitioners and pharmacists to apply for access to CURES, sets standards for application denial, and clarifies actions that may be taken by DOJ and subscribers. (HSC Section 11165.1)
- 3) Establishes the penalties and structure for issuing a citation if a subscriber is in violation with any provision of the chapter. (HSC Section 11165.2)

THIS BILL:

- 1) Requires the DOJ to make CURES information available to physicians, pharmacist, and other health care practitioners through an online web portal or by permitting interfacing software.
- 2) Stipulates conditions for the approval and use of interfacing technology systems, including, security, use of information, and privacy. Requires health systems utilizing a health information system that would interface with CURES to enter into a memorandum of understanding or other agreement setting terms and conditions for usage.
- 3) Authorizes the DOJ to conduct audits of any interfacing technology systems.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the California Chapter of the American College of Emergency Physicians. According to the author, “The overuse of prescription opioids is a significant national public health problem and California communities face rising rates of opioid

related deaths. California's prescription drug monitoring program, CURES, is a critical tool that helps combat prescription drug abuse. AB 40 integrates CURES with emergency room health information technology systems. This will allow prescription information to be included in the same patient information that emergency physicians already receive. AB 40 will help reduce stress on California's overcrowded emergency departments by allowing emergency physicians to more efficiently receive information and helps fight prescription drug abuse.”

Background. This bill would require the DOJ to establish a system for evaluating and utilizing outside health management software to allow health care practitioners to more effectively manage care for patients who may be using or need to be prescribed opioids. Utilizing an interfacing technology system, with the potential for automation, would increase ease of use of CURES information and potentially increase positive outcomes for patients. Existing law does not allow the DOJ to authorize health information systems to access CURES. The bill also allows the DOJ to audit any approved technology systems that interface with CURES.

CURES was established in 1997 by AB 3042 (Takasugi), Chapter 738, Statutes of 1996, in response to recommendations of the Controlled Substance Prescription Advisory Council. (SCR 74, 1992.) The program initially was intended to electronically monitor the prescribing and dispensing of Schedule II controlled substances, such as oxycodone. The CURES provides for real-time electronic transmission of specified prescription data to DOJ. Essentially, the data is analyzed for indications that controlled substances are being improperly prescribed, or that drug abusers are obtaining prescriptions from many doctors (doctor shopping). Currently, physicians and pharmacists have access to CURES data through patient activity reports. Currently, physicians must manually query the CURES database, something which, according to the sponsor, does not usually occur unless the physician is planning to prescribe controlled substances.

To support health care practitioners in more efficiently and effectively serving patients, and preventing a variety of health care complications from not being aware of a patient's potential opioid usage, the bill would allow health care technology systems that are approved by DOJ to automatically query the system to pull relevant prescribing information. This is especially relevant in emergency departments where many patients are seeking immediate pain relief and may be prescribed controlled substance medications as a result.

Current Related Legislation. SB 641 (Lara) revises the privacy provisions of CURES. The bill specifies that, except as specified, information within CURES is confidential, not subject to discovery or admissible in any civil or administrative action, and exempt from public inspection, copying, and disclosure pursuant to the California Public Records Act. The bill specifies to whom the information within CURES may be disclosed or released, including, among others, to a health care practitioner providing care to a current patient, to a pharmacist dispensing a controlled substance to a current patient, and, upon a written request, to certain regulatory boards. The bill requires a pharmacy to provide a specific notification about CURES to each patient who is dispensed a Schedule II, Schedule III, or Schedule IV controlled substance.

Prior Related Legislation.

AB 2968 (Mullin), Chapter 286, Statutes of 2006, added more information to the requirements for a physician to prescribe a controlled substance, and required electronic monitoring of Schedule IV drugs.

SB 151 (Burton), Chapter 406, Statutes of 2004, made the CURES reporting system permanent.

AB 3042 (Takasugi), Chapter 738, Statutes of 1996, established CURES as a three-year pilot program.

ARGUMENTS IN SUPPORT:

California American College of Emergency Physicians – “Allowing CURES to integrate with health information technologies will allow prescription information to be included in the same patient information that physicians already receive. This will help reduce stress on California’s overcrowded EDs by allowing emergency physicians to more efficiently treat patients, ensuring all patients receive timely care.”

California Access Coalition – “This bill properly balances the needs for shared information and patient privacy in addressing at least one aspect of the opioid epidemic and we appreciate your efforts on this issue.”

California Medical Board – “The Board believes CURES is a very important enforcement tool and an effective aid for physicians to use to prevent doctor shopping. The Board supports the concept of integrating existing health information technology systems with the CURES database.”

ARGUMENTS IN OPPOSITION:

None on file

IMPLEMENTATION ISSUES:

While supporting the interoperability of CURES and established medical information systems may assist health care practitioners and allow them to provide more effective care, attention must be paid to ensure data security and patient privacy. The DOJ and practitioners must ensure that integrated technology systems do not sacrifice privacy for the sake of convenience. The author should consider amending the bill to strengthen data security and privacy protections.

REGISTERED SUPPORT:

California American College of Emergency Physicians
California Access Coalition
California Medical Board

REGISTERED OPPOSITION:

None on file

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