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CURES PROGRAM  
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TO: CURES PRESCRIBER-USERS, NON-DEA PRACTITIONER-USERS, PHARMACIST-USERS, AND DELEGATE-USERS

RE: NEW FEATURES AND REQUIREMENTS FOR EXPANDED DELEGATE ACCESS

On April 11, 2022, the California Department of Justice (CA DOJ) will release an optimized Controlled Substance Utilization Review and Evaluation System (CURES). The optimized CURES will provide an improved user interface and new system features, including functionality authorized through recent legislation. One of these features will include expanded Delegate<sup>1</sup> functionality, through which Delegates will be authorized to directly access data in CURES.

In order to implement this expanded Delegate access, CA DOJ has promulgated updated CURES regulations. The proposed text of these regulations can be viewed at the following hyperlink: [California Code of Regulations, title 11, chapter 8.5 \(https://oag.ca.gov/system/files/media/cures-15day-text-proposed-regs.pdf\)](https://oag.ca.gov/system/files/media/cures-15day-text-proposed-regs.pdf).

The purpose of this bulletin is to delineate important requirements in the proposed regulations that are critical to successfully establishing Delegate associations in the optimized CURES. Specifically, this bulletin covers: 1) Delegate eligibility, 2) the Delegate Agreement, and 3) Delegate procedures.

Please note that all current Delegate associations will be disabled upon the release of the optimized CURES on April 11, 2022. Authorizing Users will need to establish new Delegate associations through the steps detailed in article 2.4 of the proposed regulations, entitled "Access and Use by Delegates," and summarized in the "Delegate Procedures" section of this bulletin.

### **1. Delegate Eligibility**

An Authorizing User is defined in proposed section 820(g) to mean "a Prescriber-User, Non-DEA Practitioner-User, or Pharmacist-User who delegates authority to a Delegate to access data in CURES on behalf of that Prescriber-User, Non-DEA Practitioner-User, or Pharmacist-User."

A Delegate is defined in proposed section 820(w) to mean "an individual who meets the eligibility requirements of section 824.1, subdivision (a), has entered into an agreement that meets the requirements of section 824.2, subdivision (a), and is at least 18 years of age."

Proposed section 824.1(a) sets forth the following eligibility requirements:

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<sup>1</sup> Any non-standard capitalized words, such as "Delegate," that are found in this bulletin indicate a defined term from the proposed regulations.

(a) Subject to the requirements of section 824.2, subdivision (a), an individual to whom authority is delegated by an Authorizing User may access data in CURES as a Delegate for that Authorizing User if the individual to whom authority is delegated qualifies as at least one of the following:

(1) A Prescriber, Out-of-State Prescriber, Non-DEA Practitioner, Pharmacist, or Out-of-State Pharmacist, who is under the common control of the same Covered Entity as the Authorizing User.

(2) An Authorized Health Care Provider who is under the common control of the same Covered Entity as the Authorizing User.

(3) A Workforce Member who needs access to Protected Health Information to carry out the Workforce Member's duties.

(4) A Veterinary Workforce Member who needs access to Personal Identifying Information to carry out the Veterinary Workforce Member's duties.

## **2. Delegate Agreement**

A Delegate Agreement is defined in proposed section 820(x) to mean “an agreement between an Authorizing User and one or more Delegates that meets the requirements of section 824.2, subdivision (a).”

Proposed section 824.2(a) sets forth the following requirements for Delegate Agreements:

(a) An Authorizing User must enter into a Delegate Agreement with each Delegate to whom that Authorizing User delegates authority under this article. The Delegate Agreement must meet all of the following requirements:

(1) The Delegate Agreement includes, at a minimum, all of the following:

(A) A statement acknowledging the Authorizing User's understanding of the requirement in section 824.6, subdivision (a).

(B) A statement acknowledging the Delegate's understanding of, and agreement to comply with, the laws and regulations governing the Delegate's access and use of CURES, including the requirements on accessing data in CURES under section 824.6, and the requirements on use and disclosure of data obtained from CURES under section 824.7.

(C) A statement acknowledging the Delegate's understanding that the Delegate's access and use of CURES is subject to audit by the Authorizing User.

(D) A statement acknowledging that the Authorizing User or the Delegate may terminate the Delegate Agreement, in either party's sole discretion, prior to the expiration of the term of that Delegate Agreement.

(E) An effective date of the delegation of authority, and an expiration date of the delegation of authority, which will establish the term of the Delegate Agreement.

(2) The Delegate Agreement must only be between one Authorizing User and one Delegate, or between one Authorizing User and multiple Delegates. This limitation does not prevent a Delegate from having multiple Authorizing Users.

(3) The term of the Delegate Agreement between the Authorizing User and the Delegate must not exceed 12 months from the effective date of that Delegate Agreement.

(4) The Delegate Agreement may include additional requirements or provisions to which the parties consent, provided those requirements are consistent with the laws and regulations governing the Delegate's access and use of CURES and which, if found to conflict, will be subordinate to the laws and regulations governing the Delegate's access and use of CURES.

(5) The Delegate Agreement must be signed and dated by the Authorizing User and the Delegate.

(b) If an Authorizing User cancels a Delegate association with a Delegate under section 824.8, subdivision (c), the Delegate Agreement between the Authorizing User and the Delegate will automatically terminate without further action by the Authorizing User.

(c) If an Authorizing User or a Delegate terminates a Delegate Agreement prior to the expiration of the term of that Delegate Agreement, and the Delegate Agreement is between one Authorizing User and multiple Delegates, the Delegate Agreement will remain in full force and effect as to the remaining Delegates.

(d) Upon expiration of the term of a Delegate Agreement between an Authorizing User and a Delegate, the Authorizing User's delegation of authority to that Delegate will be automatically terminated, unless the Authorizing User and the Delegate enter into a new Delegate Agreement under this section that takes effect upon expiration of the term of the existing Delegate Agreement.

(e) A fully executed copy of any Delegate Agreement between an Authorizing User and a Delegate under this section must be retained by both parties for a period of five years from the expiration of the term of that Delegate Agreement. Upon request, the Authorizing User and the Delegate must provide the Delegate Agreement to the Authorizing User's Licensing Board or Out-of-State Licensing Board, the California Department of Consumer Affairs, or the Department.

### **3. Delegate Procedures**

The changes to system functionality in the optimized CURES will include the following process through which Authorizing Users can add Delegate Agreements to their CURES profile:

- a) Authorizing Users will be asked to read and acknowledge the following Delegate Agreement verification:

An Authorizing User must enter into a Delegate Agreement with each Delegate to whom that Authorizing User delegates authority under California Code of Regulations, title 11, section 824.2. The Delegate Agreement must meet the requirements of California Code of Regulations, title 11, section 824.2.

I acknowledge that I have a Delegate Agreement with the below-identified Delegate to whom I delegated authority under California Code of Regulations, title 11, section 824.2, and that the Delegate Agreement meets the requirements of California Code of Regulations title 11, section 824.2.

- b) Authorizing Users will be asked to provide the Delegate's first name, last name, and email address along with the effective date and expiration date of the Delegate Agreement. The text shown below will be presented on the screen along with the Effective Date and Expiration Date fields:

Provide the effective date and expiration date of the Delegate Agreement entered into between the Delegate and the Authorizing User under California Code of Regulations, title 11, section 824.2. The effective date and expiration date establish the term of a Delegate Agreement. Pursuant to California Code of Regulations, title 11, section 824.2(a)(3), the term of a Delegate Agreement may not exceed 12 months from the effective date established in the Delegate Agreement.

- c) Authorizing Users will be asked to read and acknowledge the following statements by clicking a checkbox:

I certify that the above-referenced Delegate information is an accurate representation of the information contained in my written Delegate Agreement with this Delegate under California Code of Regulations, title 11, section 824.2.

[Authorizing Users] are responsible for all access and use of CURES or data obtained from CURES by a Delegate to whom that [Authorizing User] has delegated authority, including the Delegate's compliance with California Code of Regulations, title 11, article 2.4, and all applicable provisions of California Health and Safety Code, division 10, chapter 4. When performing a search in CURES that includes a request for prescription dispensation information from a state or states in addition to California, [Authorizing Users] must also comply with all applicable laws and regulations of the state or states that are being searched.

I hereby certify that I understand and agree to the foregoing terms and conditions, including my responsibility for the access and use of CURES by my Delegates. Any violation of the terms and conditions of CURES, or any applicable state or federal law or regulation, may result in prosecution.

- d) Delegates will be notified by a CURES system-generated email that they have been designated as a Delegate for the Authorizing User. Delegates will have 14 calendar days to accept the request. If the Delegate already has a CURES account, then the Delegate will be instructed to log in to that CURES account and enter a verification code into the "Prescriber/Pharmacist Code" field on

the CURES dashboard. If the Delegate did not already have a CURES account, then the Delegate will be provided with a unique registration link and instructed to register using that link.

A user guide will be accessible to Prescriber-Users, Pharmacist-Users, and Non-DEA Practitioner-Users in the optimized CURES web application as of April 11, 2022, which will include step-by-step instructions on how to establish a Delegate association and more details on Delegate management.

If you have questions about the information contained in this bulletin, please contact the CURES Program at [cures@doj.ca.gov](mailto:cures@doj.ca.gov) or (916) 210-3187.