



February 24, 2017

Senator Ricardo Lara
State Capitol
Room 5050
Sacramento, CA 95814

Dear Senator Lara,

You were on the front lines of the fight against opioid overdoses last year when you authored legislation to mandate doctors check CURES, the state database tracking prescriptions of narcotics and other controlled substances, before prescribing. That new law has placed California on a path to stem the opioid crisis by reducing opioid overprescribing and abuse.

That's why it was so shocking to read the legislation you introduced last week that puts last year's advances on stemming overprescribing at risk and threatens to turn back the clock on patient protection. SB 641 is an anti-consumer assault on patient safety that uses patient privacy as a smokescreen to protect drug-dealing doctors from accountability. The bill would restrict the access of state officials investigating complaints of physician overprescribing to the CURES database and prevent regulators and law enforcement from holding accountable dangerous doctors.

As you have yet to consult Consumer Watchdog on this measure, we can only hope that you did not realize how badly this bill would cripple investigations by the Medical Board and law enforcement of physicians' unsafe and illegal prescribing habits. We urge you to withdraw the legislation, which has long been on the wish list of the California Medical Association, and protect California's progress on opioid abuse, not reverse it.

California patients have suffered under reduced legal deterrence to overprescribing and medical malfeasance under four-decade-old restrictions on their ability to bring dangerous doctors to justice. The Medical Board, which was supposed to be a strong substitute for this lost legal deterrence, has often been captured by the Medical Association's political might or failed due to bureaucratic ineptitude. In recent years, the Board has acknowledged the need to better police the profession and the CURES database is a critical tool to achieving this goal.

It is not surprising that the doctor lobby would seek to shield drug-dealing doctors from accountability given their sustained hostility to CURES. As you are aware, the doctor lobby opposed implementation, funding, and mandatory use of the CURES system for many years.

However, wrapping the current attack on enforcement in a sheen of patient privacy is especially offensive.

The privacy of individuals' medical information is a fundamental right Consumer Watchdog has long fought to support. Doctors, however, have no such right or expectation of privacy when it comes to their professional misconduct. Whether in the context of Medical Board oversight of the quality of a doctor's care, or a law enforcement investigation into a suspected pill mill, there is no justification for protecting physicians' prescribing patterns from review. As written, your bill would hamstring those investigations and place patients' lives at risk.

We know how much harm is caused when investigations are delayed or drug dealing doctors are able to practice undetected. A 2012 *Los Angeles Times* investigation painted the opioid crisis in stark relief in California, identifying 71 doctors in Southern California who had three or more patients die in connection with medications they prescribed. Dr. Van Vu of Orange County was the worst offender: 16 of Vu's patients' overdose deaths were tied to his prescribing. One patient died on a sidewalk just hours after receiving a prescription from Vu, despite the fact that the doctor had learned he was suicidal and seeking drugs. The Medical Board began an investigation of Vu only after the *Times* story was published. Another doctor identified in the series, Dr. Carlos Estiandan, was taking in more than \$1 million a year and prescribing more opioids than some hospitals. Eight of his patients died in connection with his prescriptions while a Medical Board investigation dragged on for more than four years.

The intense public, media and legislative scrutiny applied to the Medical Board in the wake of the *Times* investigation, and the spotlight on CURES as SB 482 made its way through the legislature, has finally led the Board to take overprescribing more seriously. The Board has begun using CURES proactively and has increased its enforcement actions against physicians for overprescribing opioids by 97% since 2011-12. Your bill would eliminate that progress.

Last year, SB 482 required doctors to use CURES to help them identify drug-seeking patients. To effectively protect patients from opioid abuse we must not only ensure that physicians properly monitor their patients, but also that the state properly monitors physicians. SB 641 would eliminate half of that solution by restricting Medical Board and law enforcement use of CURES to identify drug-pushing doctors.

If your interest is in protecting patient privacy, focus on law enforcement searches of patients' prescription records. This bill goes far beyond patients' needs, which have never been a real concern of the Medical Association. It would eliminate direct access to CURES by the Medical Board, eliminate direct access to CURES by law enforcement, and require a warrant for any law enforcement request for information about a doctor's prescribing record. Such restrictions would devastate oversight and cripple the ability of regulators and the law to identify and hold drug-dealing and dangerous doctors responsible for their actions.

We urge you to withdraw your legislation and rewrite it so it does not roll back California's progress on opioid abuse and place new patients at risk.

Sincerely,

Handwritten signature of Carmen Balber in black ink, featuring a stylized cursive script with a long horizontal flourish extending to the right.

Carmen Balber

Handwritten signature of Jamie Court in black ink, featuring a stylized cursive script with a large 'J' and 'C'.

Jamie Court