



MEMORANDUM

DATE	January 19, 2023
TO	Board Members
FROM	Terri Thorfinnson
SUBJECT	Agenda Item 10B – Legislative Report

Listed below are the key bills that the Board has been following:

[SB 1443 \(Roth\)](#) The Department of Consumer Affairs: Osteopathic Medical Board of California

Summary: This is the Sunset bill for the Dental Board of California, California Board of Accountancy, and the California Architects Board. Specific to the Osteopathic Medical Board of California (OMBC), this bill is the vehicle to eliminate the birth month issuance of a license and the prorated initial license fee. All licenses issued after January 1, 2023, will be charged the full initial license fee \$447 and will expire two years later. This change will resolve the compliance issue with SB 806 and eliminate the added workload and delays caused by having the fee change each month and expiration date being less than 24 months. Effective Date: January 1, 2023.

Analysis: OMBC requested this change for several reasons. First, eliminating the prorated license fee and initial license cycle based on birth month will resolve the compliance issue with SB 806. The prorated license cycle allowed for licenses to be issued for a duration not less than 12 months and not more than 24 months. For applicants with birth month that allowed them to be licensed for 12 months, their expiration date did not allow enough time to complete 36 months of postgraduate training by the time of their first renewal. In those cases, the Board would have to renew their license and check at their second renewal. This added more complexity and workload for SB 806 compliance.

Second, the elimination of the prorated fee and birth month will streamline application processing by eliminating the added workload and delays caused by the proration and fee changing every month. The fee changing every month increased workload and caused licensing delays when the applicant was billed a license fee amount in one month and delayed in paying until the next month or future months. Then, by the time the check was cashed, the fee amount had changed in breeze and resulted in a delay until a new check was sent or a refund was issued. This change will eliminate delays caused by this prorated system and fee.

Implementation: The Board notified licensees of this change through email and posting the Policy Alert of new laws in 2023 on the Board’s website. The Board worked with DCA’s Breeze Team staff to implement this change in breeze effective January 1, 2023. The Board alerted applicants of the upcoming change in December advising them to submit their checks as soon as possible to avoid any delays resulting from this transition. There are a significant number of applicants impacted by this transition that the Board will be working to resolve. All applicants billed after January 1, 2023, will be billed pursuant to the new law and will not be subject to any delays related to this transition. Once the transition has been completed, the Board will no longer have to process refunds and revenue transfers stemming from the prorated license fee.

Statutory Reference: Business and Professions Code Section 2456.1.

[AB 657 \(Cooper\) Healing arts: expedited licensure process: applicants providing abortion services](#)

Summary: This bill would require the Medical Board of California, the Osteopathic Medical Board of California, the Board of Registered Nursing, and the Physician Assistant Board to expedite the licensure process of an applicant who can demonstrate that they intend to provide abortions within their scope of practice and would specify the documentation an applicant would be required to provide to demonstrate their intent.

Analysis: This bill was intended to pave the way for physicians from states that ban abortion and prosecute physicians to come to California to provide vital abortion services. This was one of many bills signed into law to create California as a sanctuary state for providing and receiving the full range of reproductive health care including abortion services. Effective date: This was an urgency bill that went into effect immediately upon signing, on September 27, 2022.

Implementation: The Board updated its application to reflect this new application expedite provisions for eligible applicants. DCA Legal provided uniform language to boards and bureaus to include on the application forms. The website has the policy alert and revised application form and instructions on the website. The Board worked with DCA Breeze staff to create and test a modifier to identify this category of expedited license applications, which will be implemented January 1, 2023. Board staff will receive training to reflect updated application procedures in breeze and within daily operations.

Statutory Reference: Business and Professions Code section 870.

[AB 1636 \(Weber\) Physician’s and surgeon’s certificate: registered sex offenders](#)

Summary: This bill would authorize a board to deny a license based on formal discipline that occurred earlier than seven years preceding the date of application if the formal discipline was based on conduct that, if committed in this state by a licensed physician and surgeon, would have constituted an act of sexual abuse, misconduct, or relations with a patient or sexual exploitation. Additionally, this bill would prohibit the Board from reinstating the license of a physician and surgeon that had their license revoked or surrendered

because they committed certain sex offenses or sexual misconduct with a patient. Effective date: January 1, 2023.

Analysis: This bill was created to prevent physician licenses from being reinstated or not otherwise revoked if they engaged in sexual abuse, sexual misconduct, sexual exploitation with a patient. It expands current automatic revocation requirements to also include certain out of state convictions for sex offenses. This bill allows the Board to deny a license to an applicant who was disciplined another licensing board for sexual misconduct with a patient regardless of when the discipline occurred, removing the current seven-year limitation for applicants. This bill removes Board discretion in disciplining physicians for engaging in sexual abuse, misconduct, or exploitation with a patient.

Implementation: The Board has notified licensees by email and posting on the website a policy alert including explanation of this new law. The Board has worked with DCA Breeze team to implement a new enforcement code for this new violation that will be available to enforcement staff January 1, 2023.

Statutory Reference: Business and Professions Code Sections 480, 2232, 2307.

[AB 1662](#) (Gipson) Licensing boards: disqualification from licensure: criminal conviction

Summary: This bill would require a board to establish a process by which prospective applicants may request a preapplication determination as to whether their criminal history could be cause for denial of a completed application for licensure by the board. The bill would provide that the preapplication determination, among other things, may be requested by the prospective applicant at any time prior to the submission of an application and would require the board to include specified written information regarding the criteria used to evaluate criminal history and how the prospective applicant may challenge a denial by the board. The bill would provide that a preapplication determination does not constitute a denial or disqualification of an application and would prohibit requiring a preapplication determination for licensure or for participation in any education or training program. The bill would require a board to publish information regarding its process for requesting a preapplication determination on its internet website and authorize a board to charge a fee to be deposited by the board into the appropriate fund and available only upon appropriation by the Legislature. **Disposition: Placed on Suspense File.**

[AB 1954](#) (Quirk) Physicians and surgeons: treatment and medication of patients using cannabis

Summary: This bill would prohibit a physician and surgeon from denying treatment or medication to a qualified patient based solely on a positive drug screen for tetrahydrocannabinol (THC) or report of medical cannabis use without first completing a case-by-case evaluation of the patient that includes a determination that the qualified patient's use of medical cannabis is medically significant to the treatment or medication. The bill would provide that use of medical cannabis that has been recommended by a licensed physician and surgeon shall not constitute the use of an illicit substance in such an evaluation. The bill would provide that a physician and surgeon shall not be punished, or denied any right or privilege, for having administered treatment or medication to a qualified patient pursuant to the bill and consistent with the standard of care. Effective date: January 1, 2023.

Analysis: This bill clarifies that physicians can not deny treatment or medication to a qualified patient based solely on the positive drug screen test for tetrahydrocannabinol (THC). The bill also tries to clarify that a patient’s medical cannabis use recommended by a physician does not constitute the use of an illicit substance. The bill tries to create some settled law on legal prescribing and use of medical cannabis despite the fact that federally it is still considered an illicit substance to use or prescribe.

Implementation: The Board has notified licensees of this new law. Specifically, the Board has emailed and posted on the website a policy alert identifying new law and the new requirements for licensees. The Board has worked with DCA Breeze team to implement a new enforcement code for this new violation that will be available to enforcement staff January 1, 2023.

Statutory Reference: Business and Professions Code Section 2228.5

AB 2098 (Low) Physicians and surgeons: unprofessional conduct

Summary: This bill would designate the dissemination of misinformation or disinformation related to the SARS-CoV-2 coronavirus, or “COVID-19,” as unprofessional conduct. Effective date: January 1, 2023.

Analysis: The intent of this bill was to clarify that to protect the public during a pandemic physicians and surgeons must follow Public Health Guidelines in advising patients and for treatment of COVID-19. The Legislature and Governor felt that amidst the pandemic, public health and public safety was put a risk of harm by physicians and surgeons spreading misinformation related to COVID-19 including vaccines and alternative remedies that could cause harm to patients and violate public health guidance. Prior to this bill being signed into law, there was potential ambiguity about the legal basis for disciplining physicians and surgeons that were spreading misinformation to their patients and the public at large through media and social media and websites. Violation of this law constitutes unprofessional conduct for physicians and surgeon who disseminate misinformation or disinformation about COVID-19 including promoting non-FDA approved alternative treatments or advising against FDA approved vaccines.

Implementation: The Board has notified licensees through a policy alert emailed and posted on the Board’s website. The Board has worked with DCA Breeze team to create an enforcement code for this new law which will be implemented January 1, 2023.

Statutory Reference: Business and Professions Code Section 2270.

AB 2626 (Calderon) Medical Board of California: licensee discipline: abortion

Summary: This bill would prohibit the Medical Board of California and the Osteopathic Medical Board of California from suspending or revoking the certificate of a physician and surgeon solely for performing an abortion if they performed the abortion in accordance with the provisions of the Medical Practice Act and the Reproductive Privacy Act. The bill would also prohibit the Board of Registered Nursing and the Physician Assistant Board from

suspending or revoking the certification or license of a nurse practitioner, nurse-midwife, or a physician assistant for performing an abortion if they performed the abortion in accordance with the provisions of the Nursing Practice Act or the Physician Assistant Practice Act, as applicable, and the Reproductive Privacy Act. Effective date: September 27, 2022.

Analysis: This bill was one of the package of bills passed in response to United States Supreme Court overturning Roe v. Wade that paved the way for states to ban, criminalize and prosecute women seeking abortions and physicians performing abortions. California intends to be a sanctuary state for women seeking abortions and physician performing abortions. The intent of this law was to make clear that physicians are not to be disciplined for simply performing abortions, which other states are in the process of implementing.

Implementation: This bill does not require any implementation because it does not create a new violation of law. Licenses have been notified through email and the policy alert on the Board's website.

Statutory Reference: Business and Professions Code sections 2253, 2746.6, 2761.1, and 3502.4.

AB 2790 (Wicks) Reporting of crimes: mandated reporters

Summary: This bill would, on and after January 1, 2024, remove the requirement that a health practitioner make a report to law enforcement when they suspect a patient has suffered physical injury caused by assaultive or abusive conduct. Additionally, this bill requires a health care practitioner who suspects that a patient has suffered physical injury that is caused by domestic violence to provide brief counseling, education, or other support, and a "warm handoff" or referral to local and national domestic violence or sexual violence advocacy services. This bill also specifies that a health care practitioner is not civilly or criminally liable for any report that is made in good faith and is in compliance with these provisions. **Disposition: Held under submission.**

SB 189 Committee on Budget and Fiscal Review. State Government (Committee on Budget and Fiscal Review)

Summary: This bill, until July 1, 2023, would authorize, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting and post the agenda. Effective date: June 30, 2022.

Analysis: This bill authorizes modifications to the Open Meetings Law requirements. Specifically, it allows for a hybrid system that Board members can attend virtually without posting their individual location and being required to make their attending location open to the public. The modification allows Board meetings to be virtual so long as there is one public location open to the public. This bill has benefited the Board members and staff and increased public participation through the virtual web cast of the meetings. It has also saved the Board significant travel expense and facilitated compliance with Public Health requirement to prevent the spread of COVID-19. However, it should be noted that this modification is still a temporary modification that ends July 1, 2023, unless otherwise extended by the Legislature. The Board should continue to advocate for this modification to become permanent.

Implementation: It has already been implemented. Board meetings have been virtual and with a location open to the public.

Statutory Reference:

[SB 731](#) (Durazo, Bradford) Criminal records: relief

Summary: This bill, among other provisions, expands the types of arrest records that are eligible to be automatically sealed to include more types of felonies under specified circumstances. This bill also allows certain felony convictions that resulted in incarcerations to be automatically sealed as long as the individual has completed their sentence and has not been convicted of a new felony within four years. Effective date: January 1, 2023.

Analysis: This bill continues recent criminal justice reforms by expanding felonies that are eligible for automatic record sealing. The intent of this bill is to provide clear records for those applicants with prior convictions to prevent being denied solely based on their prior conviction record.

Implementation: This bill will largely be implemented by the Department of Justice and will not require boards or bureaus to take any measures to implement this bill. Boards and Bureaus may have to respond to RAP sheets sent by the Department of Justice related to sealed convictions.

Statutory Reference: Penal Code sections 851.93, 1203.4, 1203.425, 1203.425, and 11105.

[SB 923](#) (Weiner) Gender-affirming care

Summary: Existing law requires physicians and surgeons to demonstrate satisfaction of continuing education requirements, including cultural competency in the practice of medicine. This bill would expand cultural competency training to include information and evidence-based cultural competency pertinent to the treatment of, and provision of care to, individuals who identify as lesbian, gay, bisexual, transgender, queer, questioning, asexual, or gender diverse, and the processes specific to those seeking gender-affirming care services. Effective date: January 1, 2023.

Analysis: This bill expands the definition of culturally competent acceptable continuing medical education. The intention of the bill is to have physicians and surgeons be trained in evidence based culturally competent issues involving patient care.

Implementation: The Board has notified licensees through a policy alert emailed to them and posted on the Board's website.

Statutory Reference: Business and Professions Code Sections 1367.043, 1367.28; Health and Safety Code Div.119.5 (Commencing with Section 150950); Insurance Code Sections 10133.13, 10133.14; Welfare and Institutions Code Section 14197.09.

[SB 1237](#) (Newman) Licenses: military service

Summary: Current law requires the Board to waive the renewal fees, continuing education requirements and other renewal requirements of any licensee who is called to active duty as a member of the United States Armed Forces or the California National Guard. This bill defines the phrase "called to active duty" to include active duty in the United States Armed Forces or on duty in the California National Guard.

Analysis: This bill clarifies that military members on active duty with the California National Guard or members of the military on non-temporary assignments stationed outside California are eligible for a waiver of license renewal fees, continuing education requirements, and other license renewal requirements. Effective date: January 1, 2023.

Implementation: The impact of the bill is to simply clarify eligibility for licensees stationed out of state, so no further implementation is required.

Statutory Reference: Business and Professions Code Section 114.3

[SB 1441](#) (Roth) Healing Arts: nonconventional treatment

Summary: Existing law requires the Board to establish disciplinary policies and procedures to reflect emerging and innovative medical practices for licensed physicians and surgeons. This bill would require the Board to annually review, and update, if necessary, these policies and procedures. **Disposition: Inactive.**

Bills Not on Tracking List that Impact Physicians and Surgeons

[AB 1120](#) (Irwin) Clinical laboratories: blood withdrawal.

Summary: This bill allows a certified phlebotomy technician to perform a blood draw through a peripheral venous catheter under the general supervision of a physician or registered nurse. Effective Date: January 1, 2023.

Analysis: This bill was not originally on the Board's tracking list because its focus was on certified phlebotomy technicians. The bill expands the scope of practice for certified phlebotomy technicians who are required to be supervised in performing this procedure.

Implementation: Notify licensees of this new change in scope of practice and supervision. The Board has notified licensees through a policy alert email sent to all licensees and posted the policy alert on the Board's website that notify licensees about new supervision requirements over phlebotomists performing these new blood draw procedures.

Statutory Reference: Business and Professions Code section 1246.

AB 1278 (Nazarian) Open Payments Data Base Reporting of Gifts

Summary: This bill requires physicians to provide each patient, at their initial office visit, a written or electronic notice of the Opens Payments Data base. The disclosure, which must include a link to the database website, must be signed by the patient and kept in their records. The bill also requires physicians to conspicuously post and open payments database notice in each location where they practice and, beginning January 1, 2024, post this information on their internet website. Effective date: January 1, 2023.

Analysis: The intention of this bill was to regulate physicians who accept gifts from pharmaceutical and durable medical device corporations and inform patients of this data base. The concern is that gift may unduly impact the physician's final treatment recommendation that may not be in the best interests of the patient. To address this concern, the legislature requires that physician provide notice to their patients that this federal Open Payment Data Base exists for physicians to report gifts received in the course of business from corporations selling pharmaceutical and durable medical devices. This bill expands on that requirement to provide patients notice of this data base so they can look up their physician to see whether they have accepted gifts that may influence their prescribed treatment. The Board's role is enforcing this new law and requirement.

Implementation: The Board has notified licensees of this new law. The Board has emailed licenses the policy alert explaining this bill and posted it on the website. Internally, the Board has added a new enforcement code in breeze and has tested it so it will be implemented January 1, 2023, when the bill becomes law.

Statutory Reference: Business and Professions Code Section 660, 661, 663, 664, 665.