



Policy Alert: Chaptered Bills of 2023

SB 815 (Roth, Chapter 294, Statutes of 2023) Medical Board of California Sunrise Law SB 815 (Roth, Chapter 294, Statutes of 2023) MBC Sunrise Bill: Enforcement/Licensing

Summary: This bill is the sunrise bill for the Medical Board of California (MBC), but it includes many new law changes that also apply to the Osteopathic Medical Board of California (OMBC).

Licensing changes:

- Extends the Postgraduate Training License expiration to 36 months for those issued a PTL after January 1, 2024.
- Eliminates 24 months in the same residency program requirement for completion of 36 months of postgraduate training.
- Provides licensees, who must demonstrate to the Board completion of 36 months of postgraduate training, an additional 60 days beyond the expiration date to do so before they become delinquent.
- Postpones the Board's Oversight Review until 2028

Enforcement changes:

- Requires the Board to establish a Complaint Liaison Unit
- Authorizes the Executive Director to adopt default decisions, stipulations for surrender of license and automatic revocations.
- In cases in which the licensee refuses to comply with a subpoena, the Statute of Limitations is tolled upon service of an order to show cause and lasts until such time as the subpoenaed records are produced or until the court declines to issue and order mandating release of the records to the Board.
- Pharmacies must provide the Board with requested pharmacy records within 3 business days of the request by the Board. There is a provision for the pharmacy to request an extension of time not to exceed 14 business days, but such request must be approved by the Board. The extension of time request is deemed approved if the Board fails to deny the request within 2 business days.
- Automatic license suspension following the conviction by a licensee for one or more the specified violations of statutes listed in the new law. The suspension remains in effect until the time of appeal has elapsed if no appeal is taken or until judgment of the conviction has been affirmed on appeal or has become final. The Board has discretion to set aside the suspension if it determines that such action serves the interest of justice. The law declares that convictions listed in this section are substantially related to the

practice of medicine and the Administrative Law Judge (ALJ) should not permit any testimony questioning whether the conviction is substantially related to the practice of medicine. Convictions that require automatic suspension include:

- sexual abuse, misconduct, or relations with patient in violation of BPC sections 726 and 729.
- violations of Penal Code sections 290 (c) and (d).
- Serious felonies defined in Penal Code section 1192.7.
- Selling, transporting, furnishing, administering, giving, possessing with intent to sell, furnish Fentanyl etc. without a lawful prescription.
- Adds three additional violations of what constitutes unprofessional conduct:
 - Failure of licensee to attend or participate in an interview with 30 calendar days of being notified.
 - Any licensee who intends to cause the patient to rescind consent to release medical records as requested by the Board or investigators.
 - Dissuading, intimidating, or tampering with a patient, witness, or any person in an attempt to prevent them from reporting or testifying about the licensee.
- Repeals BPC section 2270 that prohibited providing misleading or false non-evidence-based information related to COVID 19.
- Modified when probationers are eligible to petition for modification or termination of probation and reinstatement of their license. The new law revises the eligibility for to petition for reinstatement of a license that was surrendered or revoked for unprofessional conduct; except the board can entertain a petition after three years if there is good cause. Probationers are eligible for petitioning for early termination after 2 years or after more than one half the probation term has elapsed, whichever is greater. At least one year for modification of a condition, or reinstatement of a license surrendered or revoked for mental or physical illness, or termination of probation of less than three years. The board shall automatically reject a petition for early termination or modification of probation if the board files a petition to revoke probation while the petition for early termination or modification of the probation is pending.
- The Board may establish a fee to be paid by petitioners seeking reinstatement or modification. The fee shall not exceed reasonable costs to process and adjudicate petitions and the Board is authorized to promulgate regulations for this fee.
- The exchange of information between parties shall be completed no later than 90 days (changed from 30 days).

Analysis: The licensing revisions resolve problems caused by prior legislation. The extension of the PTL to 36 months eliminates the problem of residents who do not obtain their full license before their PTL expires have to cease practice. This new law allows residents to simply retain their PTL for their entire residency or provides more time to obtain their full license—their choice.

Overall, The enforcement changes were made to streamline the enforcement process and shorten delays beyond the Board’s control. Petition eligibility was revised to require probationers to serve the majority of their term of probation before being eligible to petition. Similarly, petition time frame for surrendered or revoked licenses was also revised. The Board was given the authority to charge a reasonable fee for petitions, which are costly to the Board and until the fee is implemented the Board receives no compensation to otherwise offset the petition costs.

The law provides the Board with new authority related to seeking evidence with specified time frames. The law revise statute of limitation tolling to prevent respondents from running out the clock by simply not complying with subpoenas. The law also adds makes it unprofessional conduct to refuse Board requested interviews, forcing patients to rescind consent for release of medical record, and prohibits intimidation and harassment of patients and witnesses to prevent them from testifying or filing a complaint.

The law added provisions related to convictions and made it clear that sexual abuse or misconduct would not be tolerated and to ensure Boards were in fact tough on such behavior the law takes away any board discretion in when the automatic revocation is triggered.
Effective: January 1, 2024

Statutory Reference: Amend Business and Professions Code Sections 853, 2001, 2007, 2019, 2020, 2064.5, 2065, 2096, 2097, 2224, 2225.5, 2234, 2266, 2307, 2334, 2425, 2435, and 2450 of, to amend and repeal Sections 2529, 2529.1, 2529.5, and 2529.6 of, to add Sections 2024.5, 2220.1, 2220.2, 2225.7, 2232.5, and 2307.5 to, to add Article 3.5 (commencing with Section 2950) to Chapter 6.6 of Division 2 of, and to repeal Section 2270 of, the Business and Professions Code, and to amend Section 123110 of the Health and Safety Code, relating to healing arts.

SB 345 (Skinner) Reproductive Services Legal Protection for Boards and Physicians

SB 345 (Skinner, Chapter 260, Statutes of 2023) – Health care services: legally protected health care activities.

Summary: This law safeguards reproductive and gender affirming care by protecting health care licensees from criminal or disciplinary action solely for providing that care. This bill also

protects consumers by prohibiting the collection, use, disclosure, or retention of the personal information of someone in the vicinity of a family planning center. Additionally, this bill allows unemancipated minors to obtain an abortion without the consent of a parent or guardian and makes updates to statutory terminology regarding fetuses.

This law prohibits a state or local government employee or a person acting on behalf of the local or state government, among others, from providing information or expending resources in furtherance of an investigation that seeks to impose civil or criminal liability or professional sanctions on an individual for a legally protected health care activity that occurred in this state or that would be legal if it occurred in this state. The bill would require any out-of-state subpoena to include an affidavit or declaration under penalty of perjury that the discovery request is not in connection with an out-of-state proceeding relating to a legally protected health care activity, except as specified. By requiring an individual seeking to discovery under these provisions to declare certain conditions are present under penalty of perjury, this bill would expand the crime of perjury and impose a state-mandated local program.

This bill would, except as required by federal law, prohibit the Governor from recognizing a demand for the extradition of a person charged with legally protected health care activity, as defined, unless the demanding state alleges that the person was physically present in the demanding state at the time of the commission of the alleged crime and then fled.

Analysis: This bill provides protections for health providers who perform abortions in California. It enhances the prohibition against disciplining doctors who provide reproductive health care services. This bill provides legal protection for physicians being prosecuted out of the state for providing reproductive services that would otherwise be legal in California from any discipline. It also provides protection through authorizing non-cooperation with out of state litigations against physicians for services that are legal in California but not legal in another state. This bill is needed to shield boards and their executive directors from being forced to cooperate or disclose any licensee or enforcement information that is part of a legal action against of physician for providing reproductive services. There was a fear that boards and their executive directors would be involuntarily pulled into out of state lawsuits against physicians providing reproductive health care services. This bill solves this problem. Effective: January 1, 2024.

Statutory Reference: Business and Professions Code sections 850.1, 852, 2746.5, and 2746.5; Civil Code sections 1798.99.90, and 1798.300 through 1798.308; Code of Civil Procedure sections 762.020, 872.520, and 1710.5; Education Code section 22171; Health and Safety Code sections 1317.1, 123450, and 123468.5; Penal Code sections 187, 847.5, 1299.02, 1334.2, 1549.15, and 13778.3; Probate Code sections 1003, 10954, 15405, and 19507; and Welfare and Institutions Code section 11486.5.

SB 544 (Laird) Open Meetings Act

SB 544 (Laird, Chapter 216, Statutes of 2023) Bagley-Keene Open Meeting Act: teleconferencing.

Summary: This bill essentially keeps the Open Meetings Act the same with a few minor changes. This bill modifies the teleconference option by requiring a majority of members at one physical, publicly accessible location, and also allows additional members above a majority to participate in the meeting from non-public sites, as long as the public can also participate in the meeting both remotely and from publicly accessible sites. It also amends existing law for advisory bodies to allow members to participate remotely in meetings from private non-public locations, as long as there is one physical location with at least one staff member where the public can attend, and the public can also access the meeting remotely. And Board members attending remotely must be on Camera the entire meeting:

“(2) The visual appearance of a member of a state body on camera may cease only when the appearance would be technologically impracticable, including, but not limited to, when the member experiences a lack of reliable broadband or internet connectivity that would be remedied by joining without video, or when the visual display of meeting materials, information, or speakers on the internet or other online platform requires the visual appearance of a member of a state body on camera to cease.

(3) If a member of the body does not appear on camera due to challenges with internet connectivity, the member shall announce the reason for their nonappearance when they turn off their camera.”

Analysis: This bill was intended to usher in a new era for the Open Meetings Act taking lessons from meetings held during COVID that were virtual, generated significant budget savings and make meetings more accessible to the public who did not travel to attend meetings, but joined virtually. The author intended to make major changes to the Open Meetings Act to allow for virtual meetings open to the public and not requiring board members to post their meeting locations and make them accessible to the public. However, there was strong bipartisan resistance among legislators to retaining what was referred to as the “Hybrid” meeting rules that were present during COVID. As a result, the bill reflects the legislative preference for in person meetings. There was a strong feeling that board members must be accessible to the public and that public discourse is better in person. It is unfortunate because now the Board returns to in person meetings and the expense to host meetings year-round with little chance that the public has the luxury of participating in person. And board members will have to arrange for their teleconference location to be publicly accessible and posted on the agenda. Effective January 1, 2024.

Statutory Reference: Government Code sections 11123.2, 11123.5, and 11124.

AB 1707 (Pacheco) Reproductive Health Adverse Actions Out of State

AB 1707 (Pacheco, Chapter 258, Statutes of 2023) Health professionals and facilities: adverse actions based on another state's law.

Summary: This bill would prohibit a healing arts board under the Department of Consumer Affairs from denying an application for a license or imposing discipline upon a licensee on the basis of a civil judgment, criminal conviction, or disciplinary action in another state that is based on the application of another state's law that interferes with a person's right to receive sensitive services, as defined, that would be lawful in this state. The bill would similarly prohibit a health facility from denying staff privileges to, removing from medical staff, or restricting the staff privileges of a licensed health professional on the basis of such a civil judgment, criminal conviction, or disciplinary action imposed by another state. The bill also would also prohibit the denial, suspension, revocation, or limitation of a clinic or health facility license on the basis of those types of civil judgments, criminal convictions, or disciplinary actions imposed by another state. The bill would exempt from the above-specified provisions a civil judgment, criminal conviction, or disciplinary action imposed by another state for which a similar claim, charge, or action would exist against the applicant or licensee under the laws of this state.

Analysis: This bill is a response to other states banning reproductive and "sensitive services" and then prosecuting physicians for providing these services that are legal in California. "Sensitive services" defined in Civil Code section [56.05](#) "means all health care services related to mental or behavioral health, sexual and reproductive health, sexually transmitted infections, substance use disorder, gender affirming care, and intimate partner violence, and includes services described in Sections 6924, 6925, 6926, 6927, 6928, 6929, and 6930 of the Family Code, and Sections 121020 and 124260 of the Health and Safety Code, obtained by a patient at or above the minimum age specified for consenting to the service specified in the section." This bill shields physicians from being denied licensure, employment, or other negative consequences as a result of out of state actions for laws that are otherwise legal in California. Effective: January 1, 2024.

Statutory Reference: Business and Professions Code sections 805.9 and 850.1; Health and Safety Code sections 1220.1 and 1265.11.

AB 1369 (Bauer-Kahan) Telemedicine Out of State License Exemption

AB 1369 (Bauer-Kahan, Chapter 837, Statutes of 2023) Out-of-state physicians and surgeons: telehealth: license exemption.

Summary: This law creates an exemption to licensure that allows out of state physicians through telemedicine to provide care to California patients without applying or needing to obtain a California license to practice medicine.

Analysis: The foundation of telemedicine in California was based on two main prerequisites:

1. Physicians providing care to California based patients must be licensed in California.
2. The conditions that were allowed to be provided through telemedicine were for conditions that the standard of care would not require the physician to see a patient in person to diagnose and treat or recommend treatment.

This bill violates both of the current foundations of telemedicine allowable in California. These two requirements were put in place to protect public safety of patients being treated through telemedicine. Both requirements are at the heart of protecting patient 's safety. Technically, the bill amends BPC section 2052 by adding a new subsection 2052.5. BPC section 2052 is the section of law that defines the scope of practice of medicine and requires a medical license to do so. By adding the proposed subsection 2052.5 it essentially adds a both a scope exemption and an exemption from the requirement that to practice medicine in California, one must be licensed to practice medicine from their respective regulatory boards. It exempts them from being criminally charged for unlicensed practice and fined up to \$10,000 and imprisonment not to exceed a year.

One of the scope changes this bill proposes is to allow these out of state unlicensed telemedicine physicians to provide care for life threatening conditions, which is currently prohibited and beyond the scope approved for telemedicine to provide. This dramatic scope expansion is not only a red flag, but also a significant threat to patient safety. Life threatening conditions require in person treatment not video chats level care. Life threatening conditions are when patients are most at risk of harm and would open them up to being victims of negligence precisely because the telemedicine physician is unable to provide the immediate level of care for a life-threatening condition.

The fact that this law allows telemedicine doctors to provide care without being licensed in California would mean that they are not regulated by the Board; the board would not have enforcement jurisdiction over them for purposes of pursuing disciplinary actions to protect public safety. This exemption would prevent OMBC and MBC from protecting patient safety. Patients harmed by these unlicensed out of state telemedicine physicians would have no recourse against them civilly or criminally or otherwise because the harm occurred in California and no entity in California has jurisdiction over these unlicensed out of state physicians. This law opens a huge loophole in protecting patient safety and regulating physicians who provide care to patients in California.

It is worth emphasizing that licensure is not simply an administrative hassle for physicians to practice medicine in California. Licensure requirements are set by the Legislature to protect public safety and ensure competency and avoid fraudulent licensure so that every patient can

feel confident that they are being cared for by a competent physician. Licensure also is the mechanism that provides the Board with enforcement jurisdiction to investigate and bring disciplinary actions against physicians who violate the law. Without licensure, there is no regulation of physicians who are allowed to practice in California without a license and there is no recourse for patient harm against the out of state unlicensed physician. Patients are left unprotected by this bill. Effective: January 1, 2024.

Statutory Reference: Business and Professions Code section 2052.5.

Informational Bills

AB 242 (Wood) Critical Access Hospitals Physicians

AB 242 (Wood, Chapter 641, Statutes of 2023) Critical Access Hospitals Physicians.

Summary: Existing law, the Medical Practice Act, authorizes the Medical Board of California to grant approval of the employment of licensees on a salary basis by licensed charitable institutions, foundations, or clinics if no charge for professional services is made, in accordance with specified requirements. Existing law provides an exception to the prohibition on charging for professional services for a federally certified critical access hospital that employs licensees and charges for professional services rendered by those licensees to patients under specified conditions, including that the medical staff concur by an affirmative vote that the licensee's employment is in the best interest of the communities served by the hospital. Existing law makes that exception operative only until January 1, 2024.

This bill would permanently extend authorization for federally certified critical access hospitals to directly employ medical professionals, and charge for professional services rendered by those medical professionals.

Analysis: This law to extends the authorization to employ medical professionals and charge for services rendered does not directly impact OMBC. While the Board is referenced as having the authority to grant approval of employment, this is not a transaction that occurs. The Board does not receive requests for approval of such employment. Additionally, the board would not enforce this bill because it does not have jurisdiction over hospitals and, in particular, Critical Assess Hospitals. Effective January 1, 2024.

Statutory Reference: Business and Professions Code Section 2401 relating to healing arts.

AB 834 (Irwin) Physician and Surgeon Partnerships

AB 834 (Irwin, Chapter 166, Statutes of 2023) Physician and Surgeon Partnerships

Summary: This bill so far makes minor changes to Business and Professions Code section 2416 related to professional partnerships for physicians. Specifically, the bill adds doctors of podiatric

medicine and prohibit non-podiatrists and non-physicians from practicing in the partnership or voting on partnership matters outside the partner’s scope of practice.

Analysis: This bill is doing some technical clean-up in adding doctors of podiatric medicine to this professional partnership BPC section. It does however create some restrictions related to non-physician and non-podiatric medical doctors’ role and voting authority within the partnership. Existing law allows for non-physicians to be in partnership with physicians and requires the physician ownership is 51%. In any case, it does not impact the board or physicians and surgeons but does modify their partnership with non physicians. Effective January 1, 2024

Statutory Reference: Business and Professions Code Section 2416 relating to healing arts.

AB 1070 (Low) Physician Assistant Supervision

AB 1070 (Low, Chapter 827, Statutes of 2023) Physician Assistant Supervision

Summary: This bill authorizes a physician and surgeon to supervise more than four Physician Assistants (PAs) if the PA is gathering patient information and performing an annual wellness visit, advanced assessment, or health evaluation, including diagnostic screenings, if it does not involve direct patient treatment or prescribing medication, in a home health evaluation.

This bill was intended to revise supervision requirements that would allow P.A.s to perform home visit for patients who are unable to go to the clinician’s office. The bill allows P.A.s to perform home visits without the direct supervision of a Physician and Surgeon as long as the visit does not include prescription and treatment. This bill makes changes to the supervision requirements of Physician Assistants. The bill allows Physicians and Surgeons to supervise up to eight P.A.s when certain conditions exist. Current law allows a Physician and Surgeon to supervise four P.A.s.

Analysis: Existing law: 1) Establishes the PA Act, administered by the Physician Assistant Board (PAB), which provides for the licensing and regulation of PAs and authorizes a PA to perform medical services under the Act if they do so under the supervision of a licensed physician and surgeon who is not subject to discipline; if the PA renders services pursuant to a practice agreement that meets specified requirements; if they PA is competent to perform the services and; if the PA’s education, training, and experience have prepared the PA to render the services. (Business and Professions Code (BPC) § 3500 et seq., § 3502) 2) Defines “supervising physician” or “supervising physician and surgeon” as a physician and surgeon licensed by the Medical Board of California (MBC) or by the Osteopathic Medical Board of California who

supervises one or more physician assistants, who possesses a current valid license to practice medicine, and who is not currently on disciplinary probation prohibiting the employment or supervision of a physician assistant. Specifies that “Supervision” means that a licensed physician and surgeon oversees the activities of, and accepts responsibility for, the medical services rendered by a PA and shall not be construed to require the physical presence of the physician and surgeon, but does require adherence to adequate supervision as agreed to in the practice agreement and the physician and surgeon being available by telephone or other electronic communication method at the time the PA examines the patient. (BPC § 3501(f)) 3) Defines “practice agreement” as the writing, developed through collaboration among one or more physicians and surgeons and one or more PAs, that defines the medical services the PA is authorized to perform and that grants approval for physicians and surgeons on the staff of an organized health care system to supervise one or more PAs in the organized health care system. (BPC § 3501(k))

According to the Author, “In-home health evaluations are an incredibly valuable service provided by clinicians throughout the state. A clinician can spend an average of 50 minutes either sitting face-to-face or via video conferencing with the member to review current and past health conditions, perform diagnostic tests when appropriate, examine the home for safety hazards, and discuss social determinants of health. The in-home evaluation also allows clinicians an unparalleled line of sight into the member’s clinical, social, functional, behavioral, and environmental condition. They can review medications for AB 1070 (Low) contraindications or lack of adherence, check for physical safety concerns and determine whether food insecurity exists, or the individual is socially isolated.”

PAs who provide health care services do so with the direction and responsible supervision of a Doctor of Medicine or osteopathy. Within the physician-PA relationship, PAs make clinical decisions and provide a broad range of diagnostic, therapeutic, preventive, and health maintenance services.

Effective, January 1, 2020, a physician and surgeon who supervises a PA does not need to be physically present when a PA is treating a patient but must have the specifications of the supervision agreed to in the practice agreement and the physician and surgeon must be available by telephone or other electronic communication methods at the time the PA is examining a patient. This law does not change any existing requirements for practice agreements and does not provide additional practice authority to PAs. A PA providing services during a home health evaluation would still be subject to PAB oversight and the current pathways for recourse.

PAs predominantly practice in primary care service settings such as private practice physician offices and hospitals; however, PAs also provide services in community health clinics and rural

health clinics. As reported by the Bureau of Labor Statistics, nationally, the majority of PAs work in physicians' offices (55%) and in hospital settings (26%).

Medical Board opposed this bill: The Medical Board of California "is concerned that the language of the bill that defines the work to be performed in a home health evaluation is vague and may be difficult for consumers to understand, clinicians to follow, and regulators to uphold. Although PAs are a key and valued allied health provider, the Board was also concerned that the bill would lead to ineffective oversight of PAs engaged in the work proposed by the bill."

Statutory Reference: Business and Professions Code Section 3516 relating to healing arts.

AB 1130 (Berman) Substance Abuse

AB 1130 (Berman, Chapter 21, Statutes of 2023) Substance use disorder.

Summary: This bill deletes the reference to an "addict" and instead replace it with the term "a person with substance use disorder," among other technical non-substantive changes.

Analysis: This bill appears to revise the wording and reference to "addict" in BPC section 2241 to be replaced with "person with substance use disorder." Although the bill seems to make technical changes to this section, it still is a topic that warrants the board to have it on its watch list. Effective January 1, 2024.

Statutory Reference: Business and Professions Code Sections 2241, 2241.5, and 4301, Health and Safety Code Sections 11153, 11156, 11158.1, 11215, 11217, 11217.5, 11218, 11219, 11380.7, and 11847 relating to substance use disorder.

AB 1646 (Nguyen) Guest Rotation Abortion Training

AB 1646 (Nguyen, Chapter 257, Statutes of 2023) Physicians and surgeons: postgraduate training: guest rotations.

Summary: This bill would allow residents in ACGME accredited residency programs out of state to participate in guest rotations for up to 90 days without being required to obtain licensure.

Analysis: The intent of the bill is to facilitate out of state residents enrolled in ACGME training programs in states that ban abortions and would ban the teaching of abortion to come to California and receive abortion training at Planned Parenthood clinics affiliated with ACGME training programs. This bill would apply to OMBC. Effective January 1, 2024

Statutory Reference: Business and Professions Code Section 2065.

SB 143 (Skinner, Committee on Budget and Fiscal Review) Military Service Personnel and Spouses License Exemption, PTL expiration extension., Open Meetings Act.

SB 143 (Committee on Budget and Fiscal Review, Chapter 196, Statutes of 2023) Military Servicemembers and Spouses License Exemption, PTL expiration extension, Temporary Open Meetings Act Revision.

Summary: This bill is a budget trailer bill that created multiple unrelated laws, three of which impact the Board:

Postgraduate Training License Expiration. The law extended the licenses of current PTL holders that were set to expire at the end of September to expire March 2024.

Open Meetings Act. This law provided a temporary reprieve for the Open Meetings Act changes but unfortunately expires January 1, 2024, when SB 544 the new rules for Open Meetings become effective.

Military Reciprocity Law. This law implements a federal law (Public Law 117-33) and creates licensure exemption for military servicemembers and spouses who are licensed in other states. Public Law 117-333 became effective January 5, 2023. This federal law allows military servicemembers, and their spouses, who hold professional licenses in a different state to practice in California within the same professional discipline and at a similar scope of practice, if they are required to relocate to California due to military orders. Although the federal law provides a general framework, without state legislation there were clarity issues and consumer protection gaps, which needed to be addressed as soon as possible since the federal law is already effective. Among the necessary provisions, SB 143 establishes a state registration process for individuals eligible to practice under the federal law, and it helps fill in some of the gaps in the federal law.

This law created a licensure exemption for military servicemembers and their spouses who are licensed in other states. The compromise negotiated for this new law is to have military servicemembers and spouses wanting to practice medicine in California to “register” with the Board. The new law requires military servicemembers and spouses to register with the Board and through that registration, the Board has enforcement jurisdiction over otherwise unlicensed physicians and surgeons allowed to practice in California. Those military servicemembers and their spouses that complete the registration are considered to be “licensed” in California even though they are not issued a license from the Board. DCA is building the new registration system to implement this law.

Analysis: The extension for PTLs was needed to create a bridge law for extending the Postgraduate Training License (PTL) from 15 months to 36 months. This law prevented

residents who did not obtain their full license within the 15 months allocated from having to cease practice and now have ample time to obtain their full license or be able to keep their PTL. This bridge law was needed to extend the 15-month expiration dates prior to January 1, 2024, when SB 815 permanently extends the PTL to 36 months.

The Open Meetings Act change was repealed effective January 1, 2024, ushering in the new law and rules provided by SB 544.

The implementation of Public Law 117-33 created a licensure exemption for military servicemembers and their spouses who are licensed in other states. The compromise negotiated for this new law is to have military servicemembers wanting to practice medicine in California to “register” with the Board. The new law requires military servicemembers and spouses to register with the Board and through that registration the Board has enforcement jurisdiction over otherwise unlicensed physicians and surgeons allowed to practice in California. Those military servicemembers and spouses that complete the registration are “considered” to be “licensed” in California even though they are not issued a license from the Board. DCA is building the new registration system to implement this law.

This Federal law forced California to provide for both licensure exemption and to facilitate a form of reciprocity for military servicemembers and their spouses who are licensed physicians and surgeons to practice in any state without having to be licensed and go through the licensure process in each state. DCA was heavily involved in negotiating the language for this new licensure status. Under the registration requirement, military servicemembers and spouses must comply fully with the registration requirement laid out in the law and they are allowed to practice medicine in California without being licensed by the Board.

This is the second new law this year that allows for licensure exemption, a disturbing legislative trend that hampers the Board’s ability to protect California patients from harm by unlicensed physicians and surgeon whether out of state or in state. Effective: September 13, 2023
Statutory Reference: Business and Professions Code section 115.10.

Healing Arts Bills

AB 1731 (Santiago) CURES database: buprenorphine Reporting Exemption ER

1731 (Santiago, Chapter 144, Statutes of 2023) CURES database: buprenorphine

Summary: This law creates an exemption to the existing requirement that a health care professional consult CURES before prescribing certain controlled substances. The exemption applies only to practitioners in the emergency department of a general acute care hospital who are prescribing buprenorphine.

Analysis: This law creates a narrow exemption to CURES reporting for prescribers working in the Emergency room of a hospital. Since this bill exempts physicians from the requirement to consult the CURES data base before prescribing buprenorphine or other drugs containing buprenorphine, it does not create a violation. This bill follows the legislative pattern of exempting physicians in the emergency room from otherwise specific requirements or reporting. Effective January 1, 2024.

Statutory Reference: Health and Safety Code section 11165.4.

AB 1021 (Wicks) Controlled Substances Change in Federal Law: Rescheduling

AB 1021 (Wicks, Chapter 274, Statutes of 2023) Controlled substances: rescheduling.

Summary: This law tries to bring more legal certainty and speed to any federal drug schedule change by amending the statute to allow for automatic authorization for all state prescribers as soon as federal changes are made to scheduled drugs. Among the amendments is to state that this new section of the BPC 26001 does not apply to cannabis or cannabis product because cannabis is regulated in BPC section 11150.2. The law allows healing arts prescribers to prescribe a substance that is currently prohibited due to its classification as a Schedule I drug by the federal government if that substance were to be reclassified or otherwise allowed to be prescribed under federal law. It does not apply to cannabis products that are currently authorized and regulated in California.

Analysis: The federal Controlled Substances Act classifies a number of drugs and chemicals into one of five schedules. Drugs falling within Schedules II through V may be prescribed only by health practitioners in possession of a DEA registration and are ranked according to the drug's potential for abuse, with lower numbered schedules representing drugs with a higher risk of abuse or dependence. Schedule I drugs have been determined to have no currently accepted medical use and a high potential for abuse. Schedule I drugs may not be prescribed by any health practitioner in the United States. Examples of Schedule I drugs include cannabis, LSD, peyote, heroin, and ecstasy.

The intention of this bill is to streamline legal authorization in state statute of any changes to drugs classified as schedule 1 controlled substance that are reclassified to be otherwise legal. The advocates for this bill claim that some of these schedule 1 substances do have medical use and would like to remove any delay in making them legal in California in the event that there are changes to the Federal Controlled Substance Act. Effective Date: January 1, 2024, with no actual impact until a change in federal classifications occurs.

Statutory Reference: Health and Safety Code section 11150.3.

AB 816 (Haney) Minor's Consent to buprenorphine Treatment

AB 816 (Haney, Chapter 456, Statutes of 2023) Minors: consent to medical care.

Summary: Existing law authorizes a minor who is 12 years of age or older to consent to medical care and counseling relating to the diagnosis and treatment of a drug- or alcohol-related problem. Existing law exempts replacement narcotic abuse treatment, as specified, from these provisions.

Analysis: This bill would authorize a minor who is 16 years of age or older to consent to replacement narcotic abuse treatment that uses buprenorphine. This change in law is amending Family Code section 6929. This bill is on our list to make you aware of this potential change in law regarding prescribing buprenorphine to minors. Effective January 1, 2024

Statutory Reference: Family Code Sections 6929 and 6929.1 relating to minors.

AB 269 (Berman) COVID Testing and Dispensing Sites

AB 269 (Berman, Chapter 1, Statutes of 2023) Public health: COVID-19 testing and dispensing sites.

Summary: Existing law, the California Emergency Services Act, authorizes the Governor to declare a state of emergency during conditions of disaster or extreme peril to persons or property, including epidemics. Pursuant to this authority, on March 4, 2020, the Governor declared a state of emergency relating to the novel coronavirus 2019 (COVID-19) pandemic, and ordered, among other things, that the certification and licensure requirements as specified in statute and regulation be suspended to all persons who meet the requirements under the Clinical Laboratory Improvement Amendments (CLIA) for high complexity testing and who are performing analysis of samples to test for SARS-CoV-2, the virus that causes COVID-19, in any certified public health laboratory or licensed clinical laboratory, and that the California Health and Human Services Agency is required to identify and make available medical facilities and other facilities that are suitable for use as medical facilities as necessary for treating individuals who test positive for COVID-19. This law takes effect immediately as an urgency statute and remains in effect until its repeal January 1, 2024.

Analysis: This law authorizes a person to perform an analysis of samples to test for SARS-CoV-2 in a clinical laboratory or a city, county, or city and county public health laboratory if they meet the requirements under CLIA for high complexity testing. The law authorizes an entity contracted with and approved by the State Department of Public Health to operate a designated COVID-19 testing and dispensing site to acquire, dispense, and store COVID-19 oral

therapeutics, as defined, at or from a designated site until its repeal January 1, 2024. This bill is on our list for awareness of the extension of testing authority.

Statutory Reference: Business and Professions Code Sections 1206.7 and 4176 and Health and Safety Code Sections 101161 relating to Public Health.

AB 883 (Mathis) Expedite Military License Application: Defense SkillBridge program.

AB 883 (Mathis, Chapter 348, Statutes of 2023) – Business licenses: United States Department of Defense Skillbridge program

Summary: This law requires boards and bureaus within the Department, beginning July 1, 2024, to expedite applications for licensure for active-duty military members participating in the Department of Defense’s SkillBridge program. Currently, boards and bureaus are required to expedite applications from military spouses and honorably discharged members of the military.

Analysis: Existing law requires a board to expedite, and authorizes a board to assist, in the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant has served as an active-duty member of the Armed Forces of the United States and was honorably discharged. Existing law authorizes a board to adopt regulations necessary to administer those provisions. This would create an additional military group eligible for expedited processing of applications.

This law would require the board to expedite, and authorize a board to assist, in the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant is an active duty member of a regular component of the Armed Forces of the United States enrolled in the United States Department of Defense SkillBridge program, as specified, and would provide that regulations to administer those provisions be adopted in accordance with the rulemaking provisions of the Administrative Procedure Act. Effective July 1, 2024.

Statutory Reference: Business and Professions Code Section 115.4.

SB 372 (Menjivar) Former Names and Gender Removal

SB 372 (Menjivar, Chapter 225, Statutes of 2023) Department of Consumer Affairs: licensee and registrant records: name and gender changes

Summary: This law, among other provisions, requires licensing entities within the Department to update license records if that licensing entity receives government-issued documentation demonstrating a legal change of name or gender, as specified. This bill also allows licensees to request their prior name be removed from online license verification systems operated by the

licensing entities and would establish a process for members of the public to access a licensee's enforcement records under their prior name.

This law requires licensing agencies such as OMBC to remove the prior name of a licensee from the license search when a name change has occurred with required documentation. This bill also requires that the board change the name of the person on their license certificate or pocket card without charging a higher fee. This bill also requires the board to keep track of the prior name so that it can be provide if needed pursuant to an enforcement complaint. The prior name shall for all other purposes be deemed confidential.

Analysis: The Board already changes the name once the required documents are received from the license file and the license search. However, there would need to be changes to breeze to automate the requirements of this bill. Without such automation, tracking this would be done manually which is time consuming. Effective January 1, 2024

Statutory Reference: Government Code sections 7920.000 to 7931.000 (California Public Records Act), specifically section 7922.535; Civil Procedure Code section 1277 and 1277.5; Government Code sections 6205 to 6210 (Secretary of State's at Home program authorization); Health and Safety Code sections 103425 to 103445.

This policy alert and further implementation information will be posted on the Osteopathic Medical Board of California website under the licensee state law changes.