

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

BILL NUMBER: AB 2860 and AB 2864
 AUTHOR: Garcia
 BILL DATE: February 15, 2024, Introduced
 SUBJECT: Licensed Physicians and Dentists from Mexico
 Program and Extension of Expiration Date of Current
 License Expiration Dates
 SPONSOR: Clinicas de Salud del Valle de Salinas (CSVS)
 California Primary Care Association (CPCA)

DESCRIPTION OF CURRENT LEGISLATION

As it pertains to the Medical Board of California (Board), the bill extends the existing Licensed Physicians from Mexico Pilot Program (LPMPP) for approximately 20 years, and authorizes increasingly larger cohorts of licensees (including up to a specified number of psychiatrists in each cohort) who would be authorized to practice medicine under a non-renewable three-year license to be employed by [federally qualified health centers](#) (FQHCs).

BACKGROUND

[Business and Professions Code \(BPC\) section 853](#) authorizes the Board to issue up to 30 licenses to practice medicine to individuals participating in the LPMPP. Among other requirements, LPMPP participants must, prior to licensure, complete the following:

- Pass a specified certification and interview examination.
- Satisfactorily complete a six-month orientation program on medical protocols and managed care practices in California.
- Satisfactorily complete an adult English-as-a-second-language course.

LPMPP participants are issued a three-year, non-renewable license to practice medicine in an authorized facility. As required by statute, the Board contracted with the University of California (UC), Davis to conduct an evaluation of the MPP. The first UC Davis annual [evaluation report](#) was issued in August 2022 and the second annual [evaluation report](#) was issued in October 2023. The Board's costs related to issuing LPMPP licenses, taking possible enforcement action against LPMPP licensees, and contracting with UC Davis are covered by nonprofit philanthropic entities donating to an LPMPP fund.

[AB 1395 \(Chapter 205 of 2023 Statutes\)](#) was enacted into law and required the Board to issue a license to practice medicine to LPMPP applicants without a social security number (SSN) or individual tax identification number (ITIN), as specified.

[SB 815 \(Chapter 815 of 2023 Statutes\)](#), the Board's most recent sunset bill, authorizes the Board to extend the expiration date of an LPMPP license, based on certain delays

the licensee has faced, if they were unable to practice medicine more than 30 consecutive business days due to at least one of the following circumstances (and with certain conditions):

- The pregnancy of the licensee.
- The pregnancy of the married spouse of the licensee.
- The pregnancy of the domestic partner who is in a civil union with the licensee.
- Delay caused by the credentialing process of health plans.
- Delay caused by the visa application and review process by the United States Citizenship and Immigration Services.

ANALYSIS

According to the author:

“Perhaps the most urgent matter confronting the health care of our state and nation is ensuring that we have an adequate supply of doctors available to serve the diversity of our state and nation’s population and access to health care coverage if there are insufficient doctors to provide it and even fewer doctors who are culturally and linguistically competent. The shortage of physicians has only increased since 2000.

AB 2860 addresses this serious structural and institutional problem by increasing the number of doctors from Mexico.... We will have substantially more culturally and linguistically competent doctors [to] create access and serve patients in California. This program is the only program of its type and purpose in the nation. UC Davis School of Medicine’s 2nd annual evaluation of this program, issued in October 2023, found that the program had ‘...strong feedback from all, health care is more accessible, patient trust has increased, and Mexican physicians demonstrate a solid understanding of California Medical Standards.’

Undoubtedly, AB 2864 is urgently needed so that these doctors will continue to serve these and more patients who require their culturally and linguistically competent services. My bill will provide a one-time three-year extension of their California medical license because the COVID-19 pandemic did not allow us to maximize the use of these doctors' three-year medical licenses.”

AB 2860

As currently drafted, AB 2860 replaces the existing program with another similar program that also adds psychiatrists to the list of eligible specialties. All program participants would need to meet the following requirements:

- Be licensed, certified or recertified, and in good standing in their medical specialty in Mexico. This certification or recertification shall be performed, as appropriate, by the Consejo Mexicano de Ginecología y Obstetricia, A.C., the Consejo Mexicano de Certificación en Medicina Familiar, A.C., the Consejo

Mexicano de Medicina Interna, A.C., the Consejo Mexicano de Certificación en Pediatría, A.C., or the Consejo Mexicano de Psiquiatría, A.C.

- The key difference between the current and proposed program is the addition of the Consejo Mexicano de Psiquiatría, A.C. (Mexican Council of Psychiatry), which relates to the inclusion of psychiatrists in the proposed program)

Before leaving Mexico, applicants shall have completed all the following:

- Passed the board review course with a score equivalent to that registered by United States applicants when passing a board review course for the United States certification examination in each of the physician's specialty areas and passed an interview examination developed by the National Autonomous University of Mexico (UNAM) for each specialty area. Each family practitioner who includes obstetrics and gynecology in their practice shall not perform deliveries in California unless they have performed 50 live birth deliveries, as required by United States standards, confirmed by written documentation by the supervising department chair, hospital administrator, or hospital chief medical officer. Each obstetrician and gynecologist from Mexico shall be a fellow in good standing of the American College of Obstetricians and Gynecologists.
 - This is substantially equivalent to the current program.
- Satisfactorily completed a distant-learning orientation program (developed by UNAM in Mexico and a Board-approved medical school or postgraduate training program in California) that includes medical protocol, community clinic history and operations, medical administration, hospital operations and protocol, medical ethics, the California medical delivery system, health maintenance organizations and managed care practices, medication documentation and reconciliation, the electronic medical records (EMR) system utilized by federally qualified health centers, and standards for medical record documentation to support medical decision making and quality care. This orientation program shall be approved by the Board to ensure that it contains the requisite subject matter and meets appropriate California law and medical standards where applicable.
 - This exceeds the subject areas of the orientation program required in current law by including medication documentation and reconciliation, EMR systems, and standards for medical record documentation. Under the current program this is required to be a six-month course. Under the proposed program, the course length is unspecified.
- Satisfactorily completed the [Test of English as a Foreign Language](#) by scoring a minimum of 85 percent or the [Occupational English Test](#) with a minimum score of 350 and provided written documentation of their completion to the Board.

- In the current program, licensees must satisfactorily complete English-as-a-second-language (ESL) courses in Mexico, and after arriving in California, shall be required to be enrolled in adult ESL classes at an accredited educational institution in California.
- Licensees shall be required to obtain 25 continuing education units per year of licensure, subject to random audits from the Board.
 - This is the same as the current program.

Role of the Employing FQHCs

An FQHC that employs a program licensee shall work with the UC, San Francisco (UCSF) School of Medicine to conduct 10 secondary reviews of randomly selected visit encounters per quarter. The purpose of these peer reviews is to provide feedback on compliance with medical standards, protocols, and procedures required by federal law.

This is similar to the current process being used to meet the externship requirement under existing law. No evaluation, such as the one currently being performed by UC Davis, is provided for in this bill. FQHCs shall be required to have medical quality assurance protocols, and either be accredited by The Joint Commission or have protocols similar to those required by The Joint Commission. These protocols shall be submitted to the Board prior to the hiring of physicians.

- This requirement is similar to the current program.

License Issuance, Extensions, and Maintenance

AB 2860 continues the existing law established last year that authorizes the issuance of a license if the applicant lacks an ITIN or SSN and that allows an expiration date extension under limited circumstances.

The bill proposes licensing up to the following number of individuals, per the following schedule:

- After January 1, 2025: 95 physicians (30 of which may be psychiatrists)
- After January 1, 2029: 145 physicians (40 of which may be psychiatrists)
- After January 1, 2033: 175 physicians (40 of which may be psychiatrists)
- After January 1, 2037: 210 physicians (40 of which may be psychiatrists)
- After January 1, 2041: 220 physicians (40 of which may be psychiatrists)

As with the LPMPP, licensees under the new program must obtain 25 continuing education units per year, subject to random Board audits.

Enforcement

One key area of difference between the current and proposed programs is in enforcement. Under current law ([see BPC section 853\(h\)\(2\)](#)), the Board is authorized to terminate a license if a complaint has been received that warrants terminating the license pending an investigation and resolution of the complaint. This authority has not yet been used by the Board.

Under this bill, the current enforcement language has been omitted. Accordingly, the Board would need to follow the process used for all other physician license types.

Funding the Proposed Program

The bill maintains the existing funding model, which states that any funding necessary to implement and oversee the program shall be provided by nonprofit philanthropic entities. Specifies that implementation shall not proceed unless appropriate funding is provided to the Board, which shall require an appropriation in the annual state budget act. The bill states that applicants must pay an unspecified fee amount to obtain their license.

AB 2864

AB 2864 would extend the expiration date of the existing LPMPP licensees for a period of three years from their current expiration date. This program is funded entirely from philanthropic sources and the monies provided are kept in a separate account under the Board's primary fund, the Medical Board of California Contingent Fund.

The bill essentially renews the licenses for the current LPMPP cohort by providing them with an additional three-year period to practice. AB 2864, however, does not provide for any fees to be paid to the Board, which is typical when a license expiration date is expected and would help mitigate future, potential enforcement expenses.

Comments from Board Staff

Licensing: The current physician license renewal fee of \$1,151 should be paid to the Board prior to finalizing the license extension (i.e., license renewal) for the current 30 LPMPP licensees, under AB 2864.

With appropriate funding from philanthropic sources and ongoing legislative approval of any staff positions necessary to support the review and issuance of licenses, staff does not anticipate, at this time, any significant challenges with administering the licensing aspect of the program.

Enforcement: To date, no enforcement action has been taken against any of the current program licensees, therefore, the Board's associated enforcement costs have been quite low. AB 2860 proposes adding, over time, an additional 845 licensees who

will practice for a three-year period. Accordingly, it is appropriate to plan for possible increased enforcement expenses. This financial exposure could be mitigated through fee revenue; however, the Board should consider how to cover potential enforcement expenses that could cause the program to become insolvent.

As with the current program, the proposed program would be funded entirely from philanthropic sources. Accordingly, these funds would need to continue to be kept in a separate account or fund.

Absent future amendments, if the program's account becomes insolvent, additional philanthropic contributions would be necessary to fund the Board's ongoing licensing and enforcement expenses. It is unclear in the bill whether this would place cost pressures on the Board's Contingent Fund. The lack of clarity on who will fund the program, the required deadlines for funding, and the consequences of funding not being received by each deadline create uncertainties for the Board, the licensees participating in this program, and their patients.

Further, the bill proposes to treat program licensees like any other physician licensee when investigating and disciplining them for unprofessional conduct. Given the nature of their three-year license, and the amount of time that may be required for the disciplinary process, the Board should consider whether the typical process is appropriate for program licensees. Whether and how to report disciplinary action to the [National Practitioner Data Bank](#) for these licensees should also be considered.

Ongoing Role of the Board: AB 2860 proposes a nearly 20-year program that is no longer a pilot program. It begs the question: should the Board have any role in overseeing the program beyond issuing licenses to qualified applicants and taking appropriate enforcement action?

Consideration of a Board Position

The preliminary findings in the first two UC Davis annual evaluation reports show encouraging results for patient care. These bills would extend the length of the program prior to completion of the final annual evaluation report.

If the Board believes that this is appropriate, then staff request that the Board provide directions to the staff and sponsors on how to resolve the above staff comments. In that event, staff will engage with appropriate stakeholders to make amendments in line with the Board's direction and report back to the Board at the next Board meeting.

FISCAL:

AB 2860: Substantial costs related to processing applications and issuing licenses under the proposed program that are expected to be offset by an undetermined amount of funding from nonprofit philanthropic sources.

AB 2864: Minor and absorbable costs to the program account associated with staff workload necessary to change the expiration

date for 30 licensees and monitor completion of continuing medical education credit.

Both bills: Unknown and potentially major costs to the program in the event of any significant enforcement action against one or more program licensees.

SUPPORT: None identified.

OPPOSITION: None identified.

POSITION: Recommendation: Take no position at this time; instead provide directions to staff on possible amendments on how to address the issues raised in the staff comments.

ATTACHMENT: [AB 2860, Garcia – Licensed Physicians and Dentists from Mexico Programs](#)

Version: 2/15/24 – Introduced

[AB 2864, Garcia – Licensed Physicians and Dentists from Mexico Pilot Program: Extension of Licenses](#)

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