MEDICAL BOARD ISSUE PAPER

DATE REPORT ISSUED: October 9, 2014
ATTENTION: Members, Executive Committee
SUBJECT: Medical Board Policy Compendium
STAFF CONTACT: Jennifer Simoes, Chief of Legislation

ISSUE:

The Medical Board of California (Board) has requested staff to look at issue areas that routinely are addressed in legislation for the Board to adopt general policy guidance. There are times when bills are significantly amended and the Board's previous position on the bill no longer applies. Currently, the Chief of Legislation has to wait to bring each amended bill to the Board at the next Quarterly Board Meeting for a new position to be taken. During this time, the Chief of Legislation cannot testify at Committee Hearings on the Board's position or write position letters until a new position is taken. In order for the Board to take action on amended bills in a more rapid manner, the Board has asked staff to look at areas where policy can be adopted by the Board, so the Chief of Legislation can use the relevant policy in these circumstances. This will allow for prompt testimony and amended positions, even if the amended bill has not been formally brought to the Board at a Quarterly Board Meeting of the Medical Board of California.

BACKGROUND:

The Chief of Legislation reviews all new bills that are introduced. If a bill impacts the Board, the Chief of Legislation contacts the author's office to obtain background information on the bill. If the bill appears to be problematic or contain language that the Board may potentially oppose, the Chief of Legislation does contact the author's office to let the staff know which provisions may be problematic, based on positions that the Board has historically taken. The Chief of Legislation also has other Medical Board staff review the bill, and many times offers input and technical assistance to the author's office, in order to address potential issues before the bill gets to the Board. Oftentimes, legislative staff is more than willing to take amendments to address any potential concerns. This communication with the author's office is routine and is done with almost every bill that comes before the Board for a position. In addition, if a bill is amended that significantly impacts the Board, the Executive Director and Chief of Legislation discuss the amendments with the Board President, who determines if an immediate Executive Committee Meeting should be held in order for a new position to be taken on the bill, prior to a regularly scheduled Board Meeting.

POLICY AREAS:

Scope of Practice

Background

The Board many times takes positions on bills that impact the scope of practice for health care practitioners. These bills can be difficult to weigh the scope expansion versus the need to ensure consumer protection. However, the Board has both supported and opposed bills that expand the scope of practice. For example, Senator Hernandez authored three bills in 2013 that would have expanded the scope of practice:

- SB 493, which was supported by the Board and signed into law, allows pharmacists to furnish medication, order and interpret tests, furnish self-administered hormonal contraceptives, furnish prescription medications not requiring a diagnosis recommended by the Centers for Disease Control and Prevention for individuals traveling outside the United States, independently initiate and administer vaccines, and furnish prescription nicotine replacement products and smoking cessation services. This bill requires the Board of Pharmacy (BOP) and the Medical Board to develop standardized procedures or protocols for the furnishing of self-administered hormonal contraceptives and nicotine replacement products and also establishes an Advanced Practice Pharmacist (APP) recognition. The Board supported this bill because allowing pharmacists to furnish self-administered hormonal contraceptives in accordance with standardized procedures developed by BOP, the Board, and stakeholders, and allowing pharmacists to furnish nicotine replacement products and provide smoking cessation services, is in line with their scope of practice. Allowing pharmacists to initiate and administer routine vaccines seems appropriate and furthers the Board's mission of promoting access to care.

- SB 492, which died in the Legislature, was opposed by the Board. This bill would have expanded the scope of an optometrist and create an advanced practice optometry certificate. The advanced practice certificate would enable optometrists to perform a range of therapeutic laser procedures for the eye, surgical procedures for the eyelid, and certain injections and immunizations. The Board opposed this bill because it believes that the bill did now allow for sufficient education to prepare optometrists for a significant scope expansion; as such, this could put patients at serious risk of harm and significantly impact consumer protection.

- SB 491, which also died in the Legislature, was opposed by the Board. This bill would have established independent practice for nurse practitioners (NPs) by removing provisions in existing law that require physician supervision through standardized procedures, collaboration or consultation with a physician. This bill would also have allowed a NP to order, furnish or prescribe drugs. The Board opposed this bill because NPs are well qualified to provide medical care when practicing under standardized procedures and physician supervision; however, the standardized procedures and physician supervision, collaboration, and consultation are in existing law to ensure that the patient care provided by a NP includes physician involvement and oversight, as physicians should be participating in the patient's care in order to ensure consumer protection. Expanding the scope of practice for a NP would have compromised patient care and consumer protection.

Policy and Principles

Although it would depend on the particular language in each bill, Board staff believes that the following policy statement could be adopted by the Board, due to the broadness of the policy, for bills that propose scope of practice expansions:

1) The Department of Consumer Affairs, (DCA), the Board and other healthcare boards of the DCA are duty-bound, first and foremost to protect and serve California Consumers

2) Protecting and serving healthcare consumers requires that DCA and its member healthcare boards assure, as best as practicable, that healthcare consumers are:

a. Evaluated and managed by California licensees practicing within their scope of practice, as defined by law or regulation;

b. Evaluated and managed by licensees who are in compliance with all applicable federal, state and local laws and regulations;

c. Evaluated and managed by competent licensees, practicing within community standards of care.

d. Entitled to be evaluated and managed in accordance with the highest standard of care applicable to any of the licensed or certificated practitioners.

3) The Board holds that all California Consumers should know the background, training, education, certification and history of disciplinary actions of any healthcare provider they may consider seeing.

4) The Board recommends that any legislatively proposed expansion of scope of practice include criteria to be met regarding education, training, certification and continuing oversight of any practitioner who obtains expanded scope. First and foremost consumers must be protected and any proposed scope expansion must assure adequate mechanisms and oversight to reduce patient risk of harm. Care provided to patients in California should be of the same quality, regardless of who is providing the care.

Continuing Medical Education (CME)

Background
There are many bills that initially propose requiring mandatory CME. Due to the Board's history in opposing these bills, the Chief of Legislation always advises the legislative office that the Board will likely oppose mandatory CME. Many times the author's office decides to include language instead that would encourage physicians take a certain type of CME or encourage the Board to set specific standards.

Policy Statement Recommendation
The Board opposes the concept of mandated CME topics. The Board believes that each licensed physician should decide which type of continuing education is most appropriate for their particular practice.

Funding for Physician Education

Background
The Board has routinely supported bills that provide additional funding for the practice of medicine. This includes bills that improve or provide more funding for loan programs, provide more funding for medical schools, and provide funding for additional residency positions. When these types of bills are introduced, the Chief of Legislation does advise the author's office that the Board will likely be in support of additional funding.

Policy Statement Recommendation

The Board supports additional funding for physician education, including funding for additional residency positions, funding for medical schools in California, and funding for loan programs, including the Steven M. Thompson Loan Repayment Program.

If Members have other policy recommendations these can be brought back to the Board at future meetings to be discussed and added to the compendium.