

LEGISLATIVE PROPOSALS 2016

Verify a Physician's License Campaign

Board staff is working on launching an outreach campaign to encourage all patients to verify their physician's license on the Medical Board's website. Part of the plan for this campaign is to focus outreach efforts in March. Board staff is suggesting that the Board pursue a legislative resolution to proclaim March of every year, "Verify a Physician's License Month". This is another tool to enhance the outreach campaign efforts to improve the Board's visibility, and increase awareness of the Board's website and the physician profile information it offers to consumers.

Resignation of License Option for Discipline

Board staff has become aware of a growing number of cases that result in discipline because a licensee has some type of disability that impairs his or her practice, but the licensee does not apply for a disabled license. Many times these cases result in a patient care incident and related discipline. Board staff is also seeing the same issue for older physicians who continue to practice although they may face some cognitive issues due to age. Many of these physicians have had long, distinguished careers, which unfortunately have to end in discipline. Both of these types of cases are difficult cases to settle. Many of these physicians have not had prior discipline, and do not want to surrender their licenses. For physicians in this situation who are facing an accusation that would result in more than a public letter of reprimand, but less than revocation, the Board is suggesting a new option for discipline, resignation of a license. The resignation option would allow a physician to voluntarily resign, but not allow the physician to reinstate his or her license. A resignation option might be more desirable for the disabled or older physician, and would ensure patient protection by taking that physician out of practice in California. It would merely be an option for the Board to consider for discipline, and it would be up to the Board to decide if that particular option is appropriate for each particular case.

Allied Health Licensee Clean up

Board staff is suggesting that law be amended to clarify the Board's authority in licensing and regulating allied health licensees (Licensed Midwives, Research Psychoanalysts and Polysomnographic Technologists and Trainees). There are many provisions that apply to physicians and surgeons that the Board also applies to allied health licensees, and the Board wishes to clarify its authority in law to do so. The Board tried to include some of these provisions in last year's omnibus bill, but they were removed because legislative staff thought they were too substantive for omnibus legislation. The Board would like clear authority to take disciplinary action against allied health licensees for excessive use of drugs or alcohol (Business and Professions Code (BPC) Section 2239), to revoke or deny a license for registered sex offenders (BPC Section 2232), to allow allied health licensees to petition for license reinstatement (BPC Section 2307), to allow the Board to use probation as a disciplinary option for allied health licensees (BPC Section 2228), and to obtain payment for the costs of probation monitoring.

Major Clean up Items

There are also several areas that need clean up where the changes may be too substantive for omnibus. Board staff would like to run a bill that would include the allied health clean up and the other major clean up items.

- Board staff would like to clean up the provisions in the Medical Practice Act that include the Board of Podiatric Medicine (BPM). As legislation was going through last session, it became clear that existing law does not accurately portray the Board's relationship with the BPM. In existing law it appears that the Board oversees and houses the BPM, when that is not the case. Board staff would like to clean up all sections that reference Board oversight over the BPM and move or amend the appropriate sections of the Medical Practice Act and the laws that regulate the BPM, in Article 22 of the BPC.
- Existing law (BPC Section 2221) lists the reasons a physician's license application can be denied. The Board also has the responsibility to deny or approve a postgraduate training authorization letter (PTAL) for international graduates. Although the Board currently uses the same reasons to deny a PTAL as it does for denying a license, this authority needs to be clarified in statute by including PTALs in BPC Section 2221.
- The Board currently has a limited practice license that applicants or disabled status licensees may apply for if they are otherwise eligible for licensure, but unable to practice all aspects of medicine safely due to a disability. The way the law is written now, only new licensees or disabled status licensees can apply for a limited practice license. Board staff believes that all licensees should be able to apply for a limited practice license at any time. Board staff would like to make it clear in law that the limited practice license is an option for all licensees.
- Currently when a physician is on probation, all related discipline documents are available on the Board's website for as long as those documents are public. However, if the Board issues a probationary license to an applicant (BPC Section 2221), it is not specified in law how long that information should be made available to the public. Board staff believes this information should follow the law related to physicians placed on probation, and that documents related to probationary licenses should be disclosed to an inquiring member of the public and posted on the Board's website.
- Existing law related to investigations that involve the death of a patient (BPC Section 2225(c)(1)) allows the Board to inspect and copy the medical records of the deceased patient without the authorization of the next of kin of the deceased patient or court order, solely for the purpose of determining the extent to which the death was result of the physician's conduct in violation of the Medical Practice Act. The Board must provide a written request to the physician that owns the records, which includes a declaration that the Board has been unsuccessful in locating or contacting the patient's next of kin after reasonable efforts. Sometimes the physician is no longer practicing at the facility where the care of the deceased patient occurred or where the records are located. Board staff would like to amend this section to allow the Board to send a written request to the facility where the care occurred or where the records are located, in an attempt to secure the patient records and allow the Board to move forward with its investigation.

Omnibus

- Delete BPC Section 852 related to the Task Force on Culturally and Linguistically Competent Physicians and Dentists, as this task force no longer exists.
- Delete BPC Sections 2380 – 2392, as the Bureau of Medical Statistics does not exist in the Board.
- Delete BPC Section 2029 related to retention of complaints, as this section is not relevant. The Board has its own records retention schedule and BPC Section 2227.5 also specifies how long the Board retains complaints. In addition, the Board's statute of limitations (BPC Section 2230.5) already applies.
- BPC Section 2441 is related to limited practice licenses. This section requires the applicant/licensee to sign an agreement in which the applicant/licensee agrees to limit his or her practice in the manner prescribed to by the reviewing physician. This subdivision (b) needs to be amended to clarify that the Board must also agree to the practice limitation that the reviewing physician is suggesting for the applicant/licensee.