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MEMORANDUM

DATE	January 17, 2012
TO	Members, Medical Board of California
FROM	Kurt Heppler, Senior Staff Counsel Division of Legal Affairs
SUBJECT	Implementing Regulations for AB 1267

This memorandum addresses the regulatory language necessary to implement the provisions of Assembly Bill (AB) 1267 [attached], a bill sponsored by the Medical Board of California (Board). AB 1267 requires the Board designate a physician and surgeon's certificate (his or her medical license) as inactive when that physician is incarcerated following the conviction of a misdemeanor. The inactive status means that the physician cannot practice medicine, and it is important to note that existing law already requires that the license of a physician incarcerated after conviction of a felony is automatically suspended.

AB 1267 also requires that the Board return the physician's license to its prior status within five days after receiving notice that the physician is no longer incarcerated. The Board is obligated to define the notice requirement in regulation and the attached contains the proposed regulatory language.

The proposed language specifies that proper notice to the Board means that a certified copy of the release issued by a local jurisdiction is either mailed or served upon the Board. The proposed regulation also specifies the license status that will be displayed on the Board's Internet site. Please note that existing regulations specify disclosure for other license statuses.

Legal Counsel recommends that the proposed regulation be set for public hearing at the next Board meeting. This action will then require staff to prepare and distribute a notice of the proposed rulemaking, an initial statement of reasons, and other related documents.

STAFF RECOMMENDATION:

Direct staff to set this regulation for hearing at the May 2012 Board Meeting.

Proposed Regulation

"Section 1355.45. (a) For purposes of subdivision (b) of section 2236.2 of the Code, "notice" means a certified copy of a release issued by the applicable local jurisdiction where the licensee was incarcerated which is provided by the licensee either by regular mail or by personal service, at the option of the licensee."

(b) Whenever a license is placed on inactive status pursuant to section 2236.2 of the Code, the Board shall display the status of the license as follows:

'Inactive License - Misdemeanor Conviction. Licensee was convicted of a misdemeanor and is currently incarcerated. No practice is permitted.'