

Mandatory Reporting for Physicians and Surgeons

Medical Board of California

Jenna Jones
Chief of Enforcement



Overview

Each year, the Board receives numerous reports mandated by the Medical Practice Act.

This presentation will explain these reports and give the public a sense of what the Board does with them, and how they are disclosed.



Overview – What is Public ?

Many mandated reports themselves are not public, however, under specific circumstances, the information within a report may be made public.

The Board posts the information on physician profiles, pursuant to Business and Professions Code 2027.



Overview – What Does the Board do with Mandated Reports?

- ▶ Many mandated reports alert the Board to matters that require investigation and are kept confidential.
- ▶ After an investigation is completed based on information within the report and the Board files an accusation, certain details of the mandated report are made public.



Reporting to the Board – Physicians and Surgeons

- ▶ Criminal Actions
- ▶ Malpractice Settlements, Judgements, and Arbitration Awards
- ▶ Transfer to Hospital, or Death of Patient in Outpatient Surgery Settings
- ▶ Notification of Name Change
- ▶ Address of Record
- ▶ Email Address



Reporting to the Board – Physicians and Surgeons – Criminal Actions

- ▶ Physicians and surgeons are required to report an indictment or information charging a felony or any conviction of any felony or misdemeanor. The report must be made within 30 days – B&P 802.1
- ▶ Felony convictions are posted on the website as soon as the Board receives official documentation regarding the conviction
- ▶ Misdemeanor convictions are made public when the Board files an accusation based on them



Reporting to the Board – Physicians and Surgeons – Malpractice

- ▶ The fact that a physician has had 3 or more (low risk category) or 4 or more (high risk category) of medical malpractice settlements within the preceding 10-year period is public.
- ▶ If these settlements occurred within the preceding 5-year period, that fact is posted on the physician's profile.



Reporting to the Board – Physicians and Surgeons – Transfer to Hospital, or Death of Patient in Outpatient Surgery Settings

Agenda Item 11

- ▶ Physicians performing a medical procedure outside of a general acute care hospital resulting in a patient death must report within 15 days. The same rule applies when the result is a patient transfer to a hospital for treatment of more than 24 hours. -- B&P 2240



Reporting to the Board – Physicians and Surgeons – Notification of Name Change, Address of Record & Email Address

Agenda Item 11

- ▶ Name changes must be reported to the Board within 30 days – B&P 2021(c)
- ▶ A change in the physician’s address of record must be reported within 30 days – B&P 2021(b)
- ▶ Physicians are required to report their email address to the Board – B&P 2021(d)



Reporting to the Board – Others

- ▶ Insurers
- ▶ Self-insured employers of physicians
- ▶ State or local government agencies that self-insure physicians
- ▶ Peer Review Health Facility Reporting
- ▶ Reporting for Coroners
- ▶ Court clerks and prosecuting agencies
- ▶ Accredited Outpatient Surgery Settings
- ▶ Transfer of Planned Out-of-Hospital Births



Reporting to the Board – Insurers

- ▶ Insurers are required to report a malpractice settlement, arbitration award, or civil judgment within a specified timeframe -- B&P 801.01



Reporting to the Board – Self-insured employers of physicians

Agenda Item 11

- ▶ Self-insured employers of physicians are required to report settlements, judgements, or arbitration awards within a specified timeframe – B&P 801.01



Reporting to the Board – Reporting for Coroners

- ▶ Coroners are required to report a finding that a death resulted from a physician and surgeon's gross negligence or incompetence – B&P 802.5
- ▶ These reports are investigated as complaints
- ▶ Certain details of the report may be disclosed in the accusation



Reporting to the Board – Court clerks and prosecuting agencies

Agenda Item 11

- ▶ Court Clerks are required to report judgements against physicians, the charging of a felony or felony conviction, and must transmit any felony preliminary hearing transcripts concerning a Medical Board licensee – B&P 803.6
- ▶ These reports are investigated as complaints
- ▶ Certain details of the report may be disclosed in the accusation



Health Facility/Peer Review Reporting Requirements (805)

What has to be reported?

- An 805 Report must be filed if one of the following actions occurs due to medical disciplinary cause or reason:
 - ✓ Denial or rejection of application
 - ✓ Privileges, membership, or employment revoked
 - ✓ Restrictions imposed
 - ✓ Resignation, leave of absence, withdrawal/abandonment after notice of pending investigation initiated for a medical disciplinary cause or reason.
- Summary suspension



Health Facility/Peer Review

Reporting Requirements (805)

When does an 805 report have to be reported?

- An 805 Report must be filed **within 15 days** after the effective date of:
 - ✓ The action to deny or reject an application
 - ✓ The action to revoke
 - ✓ The action to impose restrictions
 - ✓ Imposition of a summary suspension
 - ✓ Licentiate resigning, taking a leave of absence, withdrawing or abandoning the application

All must be due to a medical disciplinary cause or reason.



Health Facility/Peer Review Reporting Requirements (805)

What is a “medical disciplinary cause or reason”?

"Medical disciplinary cause or reason" as defined in 805(a)(6) means that aspect of a licentiate's competence or professional conduct that is reasonably likely to be detrimental to patient safety or to the delivery of patient care.



Health Facility/Peer Review Reporting Requirements (805)

- **A peer review body includes:**
 - ✓ A health care facility or clinic licensed under Health and Safety Code, Division 2;
 - ✓ A facility certified to participate in the Medicare Program as an ambulatory surgical center;
 - ✓ A health care service plan licensed under Health and Safety Code, Division 2



Health Facility/Peer Review Reporting Requirements (805)

A peer review body includes:

- ✓ A disability insurer that contracts with licentiates;
- ✓ A nonprofit medical/podiatric professional society having as members at least 25% of the eligible licentiates in the area in which it functions; or



Health Facility/Peer Review Reporting Requirements (805)

A peer review body includes:

- ✓ A committee organized by any entity consisting of or employing more than 25 licentiates of the same class that functions for the purpose of reviewing the quality of care provided by members or employees.



Health Facility/Peer Review Reporting Requirements (805)

Who files the 805 report?

Must be signed by the chief of staff of a medical or professional staff **OR** other chief executive officer; the medical director, or administrator of any peer review body; **OR** chief executive officer or administrator of any licensed health care facility or clinic.



Health Facility/Peer Review Reporting Requirements (805.01)

What has to be reported?

- An 805.01 Report must be filed if the peer review body **makes a decision or recommendation** to do one of the following for a medical disciplinary cause or reason:
 - ✓ Deny or reject an application
 - ✓ Revoke the privileges, membership, or employment
 - ✓ Impose restrictions – 30 days or more



Health Facility/Peer Review Reporting Requirements (805.01)

What has to be reported? (cont.)

- If the peer review body determines that any of these acts listed below occurred:
 - ✓ Incompetence/gross or repeated deviation including death or serious bodily injury;
 - ✓ Use of a drugs /alcohol;
 - ✓ Excessive prescribing/prescribing without a prior exam and medical reason; or
 - ✓ Sexual misconduct with one or more patients during a course of treatment or an examination.



Health Facility/Peer Review Reporting Requirements (805.01)

When does an 805.01 have to be reported?

- **15 days** after a peer review body makes a final decision or recommendation, after a formal investigation



805 VS 805.01

- 805.01 – reported prior to an 809 hearing
- 805.01 is only required for four violations; 805 is for anything related to medical disciplinary cause or reason
- 805.01 is confidential and 805 is available to other peer review bodies
- Have to file an 805 report, even if an 805.01 report has been filed



805 & 805.01 Reporting

What are the penalties for failing to file an 805 and 805.01 report?

- ✓ \$50,000 fine per violation
- ✓ Intentional or willful failure – \$100,000 fine per violation.

If the person who is required to file the 805 report is a physician, action can be brought for unprofessional conduct by the Medical Board.



805 Reporting

- ▶ Reports for 805 are posted on the Board's confidential website for authorized users
- ▶ It is considered a complaint and enters the complaint process
- ▶ Sent to Investigation
 - During this process, facility will usually receive a subpoena for the information on the 805 or 805.01 investigation
- ▶ If violations proven, then action is taken



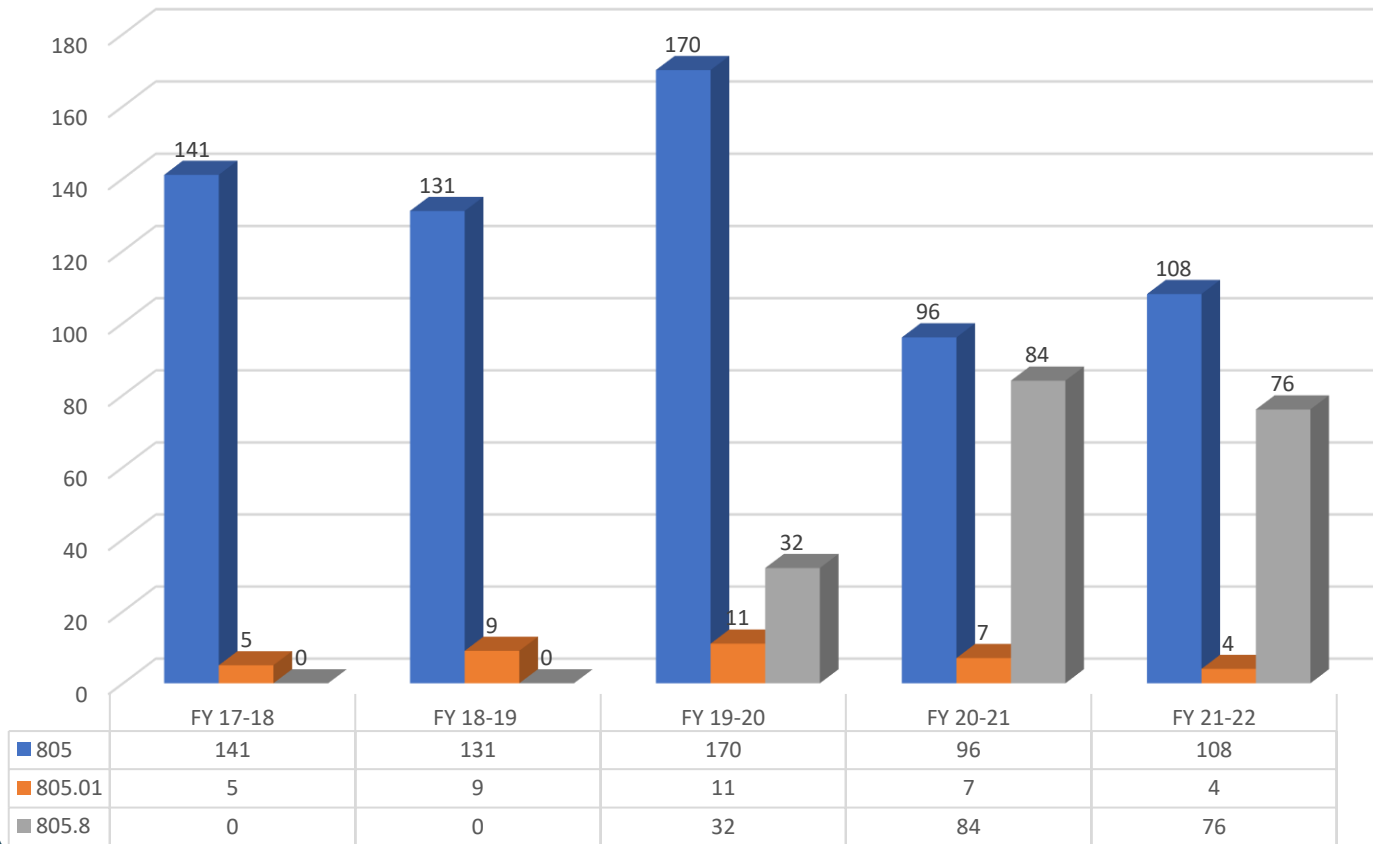
805.8 Reporting

- ▶ Health facilities and entities are required to file a report of any allegation of sexual abuse or sexual misconduct made against a licensee by a patient, if the patient or the patient's representative makes the allegation in writing.
- ▶ Must be reported to the Board within 15 days of receiving the written allegation of sexual abuse or sexual misconduct.



Health Facility / Peer Review Reporting (805, 805.01, 805.8)

Health Facility / Peer Review Reporting



■ 805 ■ 805.01 ■ 805.8

Questions?

