

MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

BILL NUMBER: SB 849  
 AUTHOR: Weber Pierson  
 BILL DATE: January 5, 2026, Amended  
 SUBJECT: Physicians and Surgeons: Sexual Misconduct and Offenses: Revocation of Certificate  
 SPONSOR: Author

DESCRIPTION OF CURRENT LEGISLATION

Requires the Medical Board of California (Board) to automatically revoke a license held by a licensee who was previously revoked by the Board for specified acts of sexual misconduct with a current or former patient or client or due to a conviction of specified criminal sexual acts and their license was reinstated by the Board on or after January 1, 2020.

The bill states that those who meet the criteria above would also be ineligible to petition the Board to have their license reinstated or renewed. As currently drafted, SB 849 only applies to one licensee.

BACKGROUND

[Business and Professions Code \(BPC\) section 726](#) states that any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct.

[BPC section 729](#) states that sexual exploitation by a physician, among other professionals, is a public offense and prescribes various penalties for those who violate this statute.

[BPC section 2246](#) states that any decision proposed to, or adopted by, the Board that includes a finding that a licensee engaged in multiple or repeated acts of sexual exploitation with a patient (as described in paragraphs 3, 4, and 5 of BPC section 729(a)) shall revoke the license in question, and the revocation shall not be stayed by the administrative law judge.

[BPC section 2232.5](#) generally states that the Board shall automatically suspend a license after the licensee in question has been criminally convicted of various felonies, including specified sexual offenses. After such a conviction has become final, the Board shall automatically revoke the license. Pursuant to [BPC section 2224](#), the Board has delegated authority to the Executive Director to adopt a decision to automatically revoke a license.

[BPC section 2307](#) states that an individual whose license was surrendered or revoked by the Board for unprofessional conduct generally must wait five years from the effective date of the order before they may petition the Board for reinstatement. This section was amended by [AB 1636](#) (Weber, Chapter 453, Statutes of 2022), to prohibit the Board from granting a reinstatement petition for someone who meets any of the following criteria:

- Their license was surrendered or revoked because they committed an act of sexual misconduct with a patient, pursuant to BPC section 726 or sexual exploitation as defined in subdivision (a) of BPC section 729.
- They were convicted in a court (including those outside California) for sexual crimes described in [subdivision \(c\) of Penal Code \(PC\) section 290](#) against a current or former patient or client (if the provider relationship was terminated primarily for the purpose of committing the offense).
- They have been required to register as a sex offender pursuant to PC section 290 if the offense was against a current or former patient or client (if the provider relationship was terminated primarily for the purpose of committing the offense).

The Board adopted a position of Support, if Amended on [AB 1636](#). See further below for a discussion on the Board's prior deliberations.

SB 849 is similar to [AB 1975, Chapter 756, Statutes of 2004, which sought to revoke](#) a license for someone who had been required to register as a sex offender at any time after January 1, 1947. Retroactive application of this bill was successfully challenged in court.

## ANALYSIS

According to the author's fact sheet:

"Patients place extraordinary trust in their physicians, and patient safety must always be the foremost priority in medical practice. The physician-patient relationship involves significant vulnerability and relies on ethical judgment and integrity. When serious misconduct occurs, it calls into question a physician's ability to safely care for patients.

In 2022, AB 1636 (Weber) removed the Medical Board's discretion to reinstate a physician or surgeon who lost their license due to sexual misconduct with a patient.

AB 1636 went into effect in 2023. A few years prior to the implementation of that measure, the Legislature spoke out against sexual abuse of all forms and granted victims additional rights and protections, including extending the statute

of limitations for sexual assault claims and prohibiting nondisclosure agreements in settlement agreements related to workplace sexual harassment.

This bill extends the victim protections implemented by AB 1636 by retroactively applying those protections to [January 1, 2020] a time frame when the State and Legislature became more forceful in their discipline of sexual harassment and misconduct.

A medical license is a privilege and not a right and this bill ensures that the responsibilities and honor attached to that privilege are maintained.”

As currently drafted, SB 849 affects only one Board licensee.

The sentiment of the author, as described in the above excerpt from their fact sheet, is laudable. Sexual misconduct by a Board licensee, regardless of the victim’s relationship to the licensee, is extremely serious, and indeed calls into question their ability to safely care for their patients.

Given prior legal history, however, there is substantial risk that this proposal will lead to costly litigation that would thwart the aim of this legislation, if a plaintiff is successful. Accordingly, the Board may wish to request amendments so that the bill has a prospective (rather than a retrospective) focus and includes additional provisions that further protect the public from those who engage in sexual misconduct.

### **Board Deliberations on AB 1636**

In 2022, AB 1636 was enacted into law, adding new provisions that strengthened the Board’s ability to protect the public from those who engage in sexual misconduct against current or former patients or clients, as specified. The Board appreciated the intent of AB 1636.

The Board, however, believed that acts of sexual misconduct by a physician against anyone (not just a patient or client) represent a serious breach of a physician’s ethical obligations and display a critical lack of judgment. Accordingly, the Board adopted a position of Support, if Amended on AB 1636 and requested various amendments that are described in the [Board’s position letter](#). The Board’s position on AB 1636 is a key basis for the proposed amendments to SB 849 that are described below.

### **Consideration of a Board Position**

Due to the factors identified above, staff recommend the Board adopt a position of Support, if Amended, to delete the current contents of the bill and replace it with new language that increases the Board’s authority to protect the public from physicians who have engaged in sexual misconduct. In summary, the amendments proposed below would do the following (language proposed to be added is in underline and italics and language proposed to be deleted is in ~~strikeout~~):

- Strengthen existing laws that prevent issuance of a license to an applicant who has committed criminal sexual offenses in or outside California, including for the commission of crimes that have been dismissed or expunged following a conviction.
- Mandate license revocation for a licensee who is found by the Board to have committed any act of sexual misconduct or sexual exploitation with a current or former patient or client.
- Prevent someone from seeking reinstatement if their license was revoked (or surrendered by the licensee while a Board accusation was pending against them) due to any act of sexual misconduct or exploitation with a current or former patient or client.
- Prevent someone from seeking reinstatement if their license was revoked because they were convicted of a crime that requires them to register as a sex offender, regardless of their relationship to the victim. Establishes a similar requirement for sexual criminal offenses that occurred outside California.

The recommended statutory amendments to the BPC are:

**2221.** (c) Notwithstanding any other law, the board shall deny a physician's and surgeon's certificate to an applicant who is or has ever been required to register pursuant to Section 290 of the Penal Code or comparable law outside of California, regardless of a dismissal pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement, or who meets the criteria described in subparagraph (C) of paragraph 1, of subdivision (i) of section 2307. This subdivision does not apply to an applicant who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

**2246.** Any proposed decision or decision issued under this article that contains any finding of fact that the licensee violated Section 726 or subdivision (a) of Section 729, engaged in any act of sexual exploitation, as described in paragraphs (3) to (5), inclusive, of subdivision (b) of Section 729, with a patient shall contain an order of revocation. The revocation shall not be stayed by the administrative law judge.

**2307.** (i) (1) The board shall not reinstate the certificate of a person under any of the following circumstances:

(A) The person's certificate ~~has been~~ was surrendered while a board accusation was pending against their license that alleges because the person committed an act of sexual abuse, misconduct, or relations with a patient pursuant to Section 726 or sexual exploitation as defined in subdivision (a) of Section 729.

(B) The person’s certificate has been revoked based on a finding by the board that the person committed an act of sexual abuse, misconduct, or relations with a patient pursuant to Section 726 or sexual exploitation as defined in subdivision (a) of Section 729.

(C) The person was convicted in a court in or outside of this state of any offense that, if committed or attempted in this state, based on the elements of the convicted offense, would have been punishable as one or more of the offenses described in subdivision (c) of Section 290 of the Penal Code, ~~and the person engaged in the offense with a patient or client, or with a former patient or client if the relationship was terminated primarily for the purpose of committing the offense.~~

(D) Notwithstanding any other law, the person is or has ever been required to register as a sex offender pursuant to the provisions of Section 290 of the Penal Code or comparable law outside of California, regardless of whether the conviction has been appealed, and regardless of a dismissal pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement, ~~and the person engaged in the offense with a patient or client, or with a former patient or client if the relationship was terminated primarily for the purpose of committing the offense.~~

(2) A plea or a verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.

(3) This subdivision does not apply to an applicant who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

FISCAL: Possible major legal costs, potentially exceeding \$1 million, to defend the Board against litigation seeking to prevent the Board from implementing SB 849. The possible costs associated with the proposed amendments have not been determined.

SUPPORT: American College of Obstetricians and Gynecologists (District IX)  
California Medical Association  
National Women’s Defense League

OPPOSITION: None identified.

POSITION: Recommendation: Support, if Amended

ATTACHMENT: [SB 849, Weber Pierson. Physicians and Surgeons: Sexual Misconduct and Offenses: Revocation of Certificate.](#)  
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