MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: August 12, 2026
ATTENTION: Members, Medical Board of California
SUBJECT: 2026 Sunset Report Legislative Proposals
STAFF CONTACT: Aaron Bone, Chief of Legislation and Public Affairs

REQUESTED ACTION

To approve the staff suggested legislative proposals described in this report and provide direction and feedback to staff on other legislative proposals for possible inclusion in the Medical Board of California's (Board) 2026 Sunset Report.

Following the August 20-21, 2026, Board meeting, staff will continue to research and refine the proposals, as appropriate, and will present updated proposals for Board approval at the November 19-20, 2026, Board meeting.

BACKGROUND

The Board is scheduled to undergo sunset review by the Legislature in 2027, which involves an evaluation of the Board's activities since its prior sunset review in 2023. The first key step for sunset review is to issue a public report[1] that includes various data about the Board's recent performance and narrative responses to questions posed by the Legislature.

A key component of a sunset report is the "New Issues" section, which allows the Board to make requests to the Legislature for statutory changes. The Board's 2022 report (see pages 166-191) included numerous proposals, several of which were enacted into law via SB 815 (Chapter 294, Statutes of 2023) including the following examples:

- Increasing initial and renewal licensure fees.
- Increasing the limit of the Board's financial reserves.
- Establishing the Complainant Liaison Unit.
- Granting the Board authority to charge fees to disciplined licensees petitioning to change the terms of their probation or have their license reinstated.
- Increasing waiting times for disciplined licensees to petition the Board for a change in the terms of their probation or reinstatement of their license.
- Establishing that it is unprofessional conduct for a licensee, or another person acting on their behalf, to act in a manner intended to cause their patient/patient representative to rescind a consent to release their medical records to the Board.
- Requiring a physician to maintain adequate and accurate medical records for at least seven years after the last date of service to a patient.

[1] For reference, see the Board's 2022 Sunset Report.

- Transferring regulation of research psychoanalysts to the Board of Psychology.

2027 SUNSET REPORT LEGISLATIVE PROPOSALS FOR BOARD CONSIDERATION

Enforcement

Addressing Licensees with Potentially Impairing Health Conditions, Including Substance Use Disorders

Although AB 408 (Berman) will not be enacted into law this year, this legislation garnered substantial support from the Legislature and various interested parties. Accordingly, staff recommend that the Board include language in the Sunset Report indicating the Board's ongoing desire to enact a law change that would authorize the Board to establish a physician health and wellness program consistent with national best practices.

Changing the Evidentiary Standard to Preponderance of Evidence

According to the Federation of State Medical Boards, 52 of the 67 medical boards within the United States (including the states, territories, and jurisdictions with separate allopathic/osteopathic medical boards) use a preponderance of the evidence standard of proof either exclusively or for certain types of violations. California case law[2] establishes that the Board must prove a violation by clear and convincing evidence to discipline a licensee. Therefore, the Board's investigations and disciplinary proceedings are more difficult, time-consuming, and expensive compared to most of the rest of the nation.

To address this incongruity, the Board in its 2022 memo to the Legislature and 2022 Sunset Report asked the Legislature to enact a statute that would change the burden of proof to preponderance of the evidence. The Legislature has not acted on this matter and staff recommend that the Board reaffirm its request in the Sunset Report.

Addressing Licensees Who Engage in Sexual Misconduct

Sexual misconduct is an egregious violation of the law and a physician's ethical obligation. Currently, the Board has a position of Support, if Amended on SB 849 (Weber Pierson).[3] In addition to the amendments already made to the bill, the Board has requested further enhancements to Business and Professions Code (BPC) section 2307 that would strengthen the law and further protect the public from licensees who have engaged in sexual misconduct.

[2] Ettinger v. Board of Medical Quality Assurance (1982) 135 Cal.App.3d 853, 856.
[3] For more information on SB 849, see Agenda Item 7.M. of this Board meeting.

Staff recommend that the Sunset Report include a request for any of its outstanding proposals that are not included in SB 849.

Require Peer Review Bodies to Include Relevant Records When Submitting Reports Required by BPC Sections 805 and 805.01

BPC sections 805 and 805.01 require reports to be filed with the Board or certain other licensing boards within the Department of Consumer Affairs (DCA) related to actions taken by a peer review body (e.g., a medical staff in a hospital) against a licensed health practitioner due to a medical disciplinary cause or reason.[4] The requirement for these reports to be filed can be triggered by, among other events, the denial, termination, or restriction of staff membership or privileges, as specified in BPC section 805.

Relatedly, BPC section 805.01 requires a report be filed within 15 days after a peer review body makes a final decision or recommendation to take disciplinary action before a hearing occurs for the following serious allegations: incompetence or gross or repeated deviation from the standard of care causing death or serious bodily injury; inappropriate self-use of certain substances or medications; repeated acts of clearly excessive prescribing, furnishing, or administering of controlled substances; or sexual misconduct with one or more patients.

BPC sections 805.01(c) and 805.1 authorize licensing boards to "inspect and copy" specified documents that are in the records of the peer review body related to the reported licensee. Despite these requirements, sometimes the Board faces challenges obtaining complete and unredacted records in a timely manner and may need to issue a subpoena to obtain the records.

To address these challenges and decrease investigation timeframes, staff propose including in the Sunset Report amendments to BPC sections 805.01(c) and 805.1 that would require a peer review body to provide the Board with a complete, unredacted copy of the records described in those sections at the time that the reports required by BPC sections 805 and 805.01 are submitted to the appropriate licensing board.

[4] "Medical disciplinary cause or reason" means that aspect of a licensee's competence or professional conduct that is reasonably likely to be detrimental to patient safety or to the delivery of patient care.

Authorize the Board to Increase Costs to be Recovered in a Non-adopted Proposed Decision

Between 2007 and 2024,[5] the Board was prohibited from recovering its investigative and legal expenses from a disciplined physician licensee that were associated with that disciplinary action.

Further, BPC section 125.3(d) generally prohibits a licensing board from increasing the cost recovery amount determined by an administrative law judge (ALJ) in their proposed decision. This subdivision, however, authorizes a board to reduce the award amount or refer the matter back to the ALJ if their proposed decision does not make any finding related to a cost recovery award.

Despite the general prohibition on increasing an ALJ's proposed cost recovery award, BPC section 3753.5(b) authorizes the Respiratory Care Board to increase such an award if that board does not adopt a proposed decision. Adding similar language to the Medical Practice Act would authorize the Board to also determine whether the cost recovery award is appropriate at the same time as the Board reviews the other aspects of the proposed decision.

Accordingly, staff recommend including language in the Sunset Report that would grant the above-described authority to the Board.

Reporting and Posting License Restrictions and Pending Felony Charges on a Licensee's Profile Page

BPC section 802.1 requires a licensee of the Board to report pending felony charges and felony convictions within 30 days of the indictment or conviction. When the Board becomes aware of pending charges in the Superior Court, it may pursue a restriction on the individual's license as authorized by Penal Code section 23. If the Superior Court places a restriction on the licensee's practice authority, that order shall be posted to the licensee's profile page as required by BPC section 2027(a)(3).

Currently, licensees are not required to self-report bail conditions, or other orders from state or federal criminal courts or federal oversight agencies, like the Drug Enforcement Administration, that place a limitation on their practice of medicine.

Furthermore, pursuant to BPC section 2027(b)(4), the Board is required to post notification of a licensee's felony convictions on their profile page but not pending felony charges. Therefore, a licensee could be facing serious criminal charges but that may not be easily visible to a current or prospective patient/client of that licensee.

[5] SB 1438 (Chapter 223 of 2006 Statutes) established this prohibition via an amendment to BPC section 125.3. SB 815 removed that prohibition.

Consequently, patients/clients may only learn of pending criminal charges if they happen to see news coverage relating to the matter. Although an accusation against a licensee is not a final determination of the Board that the licensee has acted in an unprofessional manner, the law recognizes that it is valuable to the public to be aware of these pending charges so that they can make the best decision for their healthcare needs. Similarly, posting pending felony charges on the licensee's profile page would serve a similar purpose for the public. In both instances, the respective prosecuting agency has made the determination that they will likely be able to meet the burden of proof for the alleged violations at hearing.

Considering the above, Board staff recommend that the Sunset Report includes a request for the following changes in statute:

- Require a licensee to report to the Board any restrictions on their license by a state or federal court or federal oversight agency (which would be posted to their profile page under existing law).
- Require the Board to post a notification of pending felony charges on a licensee's profile page. Such a notification would be removed if the charges were dismissed and in the case of a conviction, be replaced with an appropriate conviction notification per current law.

Posting Notices of Civil Penalties on the Board's Website

In the Board's meeting held November 30-December 1, 2023, the Board directed staff to develop a legislative proposal that would require the Board to post its orders that impose civil penalties on the Board's website. These orders are currently only available to someone who contacts the Board to request the relevant record as the Board is not authorized to publish them on a licensee's profile.

Under this proposal, any order for civil penalties associated with a licensee shall be posted on their profile page and any order associated with a non-licensee shall be posted on a newly created webpage on the Board's website.

Board staff were unable to get this proposal placed into legislation in 2024 and now recommend that the Board include this in the Sunset Report.

Conforming Timeframes Related to Exchanging Expert Witness Documentation

BPC section 2334(b) generally states that certain documentation related to medical experts and their reports related to a pending disciplinary matter shall be exchanged between the Board and a respondent no later than 90 days prior to the originally scheduled commencement date of a hearing before an ALJ.

There is an exception for Interim Suspension Orders to permit an ALJ to determine the deadline for exchanging expert witness information. Staff recommend amending this section to also provide an exception for Cease Practice Orders, because such hearings

may occur on an expedited timeframe, making the 90-day deadline before such a hearing inapplicable.

Administration

Authorizing a 24-Month Budget Reserve Like Other Licensing Boards

Unless otherwise specified in a licensing board's practice act[6], BPC section 128.5 authorizes a licensing board within the DCA to maintain a financial reserve of no more than the total of their operating budget for the next two fiscal years.

When the Board published its 2022 Sunset Report, BPC section 2435(g) limited the Board to no more than a four-month reserve. SB 815 increased that amount to a six-month reserve. Increasing the size of the Board's allowable reserve will provide the Board with additional flexibility and resources to invest in its consumer protection mission and avoid the need to borrow outside funds, as was required in recent years. Accordingly, staff recommend including language in the Sunset Report that requests an amendment to BPC section 2435(g) to eliminate the six-month reserve limitation, thereby allowing the Board to maintain up to a two-year reserve, as authorized by BPC section 128.5.

Change the Due Date for the Board's Annual Report from October 1 to January 1

BPC sections 312, 312.1, and 312.2, require the Director of the DCA, Office of Administrative Hearings, and Office of the Attorney General, respectively, to submit annual reports with specified information to the Governor and Legislature by January 1 of each year.

BPC section 2313, however, requires the Board to publish its annual report on October 1 of each year. The requirement to complete the annual report within three months after the closure of the fiscal year can strain the Board's Information Services Branch staff resources and executive team and cause delays in the development or implementation of other Board initiatives. This impact is exacerbated when the Board is preparing a Sunset Report.

Accordingly, staff recommend that the Sunset Report include a request to change the deadline of the Board's annual report to January 1, in conformance with the other referenced annual report deadlines.

[6] Examples include BPC section 7138.1, which restricts the Contractors State License Board to a 12-month reserve, BPC section 3775 restricts the Respiratory Care Board to a 6-month reserve, BPC section 4400(p) limits the California State Board of Pharmacy to a 12-month reserve.

Licensing

Study to Propose Licensure Pathway for Internationally Trained Physicians

The topic of licensing internationally trained physicians (ITPs) has received great interest both within and outside California in recent years. The success of the Licensed Physicians from Mexico Pilot Program (LPMPP) has shown that a pathway to temporary licensure for those trained outside North America can be designed and implemented to expand access to health care services and increase the supply of competent providers. Currently, the Board has a position of Oppose, Unless Amended on AB 2386 (Alvarez),[7] which intends to provide a pathway to permanent licensure in California to those licensed under the LPMPP. Further, as amended on June 16, 2026, the bill establishes the "California Physician Expansion Act," which requires the Board to issue a physician's license to someone who does not meet current postgraduate training requirements.

With respect to the proposed California Physician Expansion Act, the Board believes that this matter must first be studied appropriately, in conjunction with experts in the field of postgraduate medical training, consumers, physician organizations, health facilities, and other interested parties so that the Board can consider whether to propose a licensure model for ITPs that balances access to care with appropriate licensing standards.

Staff recommend that if an appropriate study of ITP licensure models is not enacted in 2026 that the Board requests authority for such a study in the Board's Sunset Report.

Transfer Authority to Regulate Licensed Midwives to a Newly Established Committee Within the Board

In its 2020 Sunset Report, 2022 memo to the Legislature, and 2022 Sunset Report, the Board requested that the Legislature create a separate board to regulate licensed midwives (LM). Although that has not yet occurred, Board staff have remained in contact with representatives of the California Association of Licensed Midwives (CALM) who continue to seek such a change. In furtherance of that effort, however, CALM and Board staff have engaged in discussions related to establishing a new committee within the Board that would be vested with the authority currently held by the Board to regulate LMs.

Concurrently, staff discussed during the Board's meeting held February 26-27, 2026, the current and projected condition of the LM fund. During that discussion, staff noted that not all the Board's costs related to the regulation of LMs are paid out of that fund.

[7] For more information on AB 2386, see Agenda Item 7.H. of this Board meeting.

Any proposal to establish a committee or board to regulate LMs would require additional, unidentified funds to support such a structure.

Notably, the Board has a history of committees with regulatory authority over specified professions that later transitioned into a separate licensing board, including, but not limited to the Physician Assistant Board, Physical Therapy Board of California, and the Respiratory Care Board of California.

If the necessary funding can be secured, Board staff believe that a Licensed Midwifery Committee (LMC) could replace the Midwifery Advisory Council and that on an undetermined date, the Board could transfer authority and responsibility to the LMC to license and regulate LMs in California.

As a starting point for the Board's consideration of this concept, staff suggest that the LMC have the following characteristics established in statute that include, but are not limited to:

- Protection of the public shall be the LMC's highest priority.
- LMC members will be appointed by the Governor, with at least one appointment each from the Assembly Speaker and Senate Rules Committee.
- Establishing and amending regulations relating to the Licensed Midwifery Practice Act (see Business and Professions Code sections 2505-2523).
- Issuing LMs licenses and taking enforcement action, as appropriate.
- Appointing an executive officer with the same authority as the Board's executive director.
- Paying appropriate amounts for services provided by the DCA or the Board (e.g., human resources, license application processing, information technology, enforcement activities, and legal services).
- The LMC would be subject to sunset review and open meeting laws in the same manner as the Board.

Staff request direction from the Board whether this proposal should be further developed and possibly included in the Board's Sunset Report.

Authorize the Board to Charge a Fee to Consider a Petition for Penalty Relief for Early Termination or Modification of Probationary Licenses

Pursuant to BPC section 2307, a disciplined licensee placed on probation, or whose license was revoked or surrendered, may petition the Board to modify the terms of their probation, terminate their probation early, or seek reinstatement of their license. To address the substantial costs incurred by the Board to review and process such petitions (e.g., time billed by attorneys at the Office of the Attorney General and by ALJs at the Office of Administrative Hearings), SB 815 added BPC section 2307.5, which authorizes the Board to establish a fee through regulations to be paid by disciplined licensees who wish to modify the terms of their discipline or have their license

reinstated. These regulations were adopted by the Board, approved by the Office of Administrative Law, and became effective April 1, 2026.

BPC section 2221 authorizes the Board to issue a probationary initial physician's and surgeon's license to an applicant under certain circumstances. Such individuals are issued a probationary license, which is not a disciplinary order. This code section also allows the licensee to file a petition seeking a modification of the terms and conditions of their probation. To help address cost pressures associated with processing these petitions, staff recommend including in the Sunset Report a request for such petitioners to pay the fee required for petitions for modification or early termination of probation set forth under Title 16 of the California Code of Regulations sections 1352.3(b) and (d). Under these sections, the initial non-refundable fee required to process such petitions is $1,242. Thereafter, the remaining fee required to cover the reasonable costs to process and adjudicate a petition for penalty relief shall be proposed by the administrative law judge and approved by the Board up to $22,000, less the initial fee already paid.

Requiring Postgraduate Training License Holders to Inform the Board When Leaving Their Program

BPC section 2065(e) requires a postgraduate training program to report to the Board within 30 days when a postgraduate training license (PTL) holder is terminated from, or otherwise leaves, or has completed a one-year contract approved by, the program. When a PTL holder is no longer enrolled in a California ACGME-accredited postgraduate training program, they are no longer permitted to practice in California, and their license may be cancelled.

To ensure the Board receives complete and timely information, in the furtherance of consumer protection, staff recommend including within the Sunset Report a request to amend this code section to also require the PTL holder to notify the Board on an appropriate form within 30 days leaving a program for any reason.

Repeal an Obsolete Licensing Code Section

BPC section 2064.6 contains an obsolete requirement to extend the expiration date of certain postgraduate training licenses to March 31, 2024. Staff recommend that the Sunset Report includes a request to repeal this section.

Board Member Proposals

Board members who wish to suggest statutory proposals for inclusion in the Sunset Report are encouraged to do so during the Board's August 20-21, 2026, meeting.

RECOMMENDATION

Following discussion, staff request that the Board provide direction on the proposals described above for inclusion in the Sunset Report and authorize staff to conduct any necessary research and refinement to those proposals, as appropriate, for the Board's consideration and approval at the November 19-20, 2026, meeting.