



MEDICAL BOARD OF CALIFORNIA

Protecting consumers by advancing high quality, safe medical care.

Executive Office

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Gavin Newsom, Governor, State of California | Business, Consumer Services and Housing Agency | Department of Consumer Affairs

March 22, 2022

The Honorable Melissa Hurtado
California State Senate
1021 O Street, Room 7310
Sacramento, CA 98514-4900

Re: Comments on SB 920 (Hurtado)

Dear Senator Hurtado:

On behalf of the Members of the Medical Board of California (Board), thank you for including two proposals, at the Board's request, within SB 920. Although the Board has yet not taken a position upon your bill, I am pleased to provide comments on the provisions of SB 920 related to the [Board's 2022 legislative priorities](#), which support the timely resolution of the Board's investigations.

Enhanced Medical Record Inspection Authority

Section one of SB 920 would authorize Board investigators and medical consultants to inspect a physician's business location, including patient and client records. Modeled after current authority granted to Medi-Cal fraud investigators¹, this valuable change in statute furthers the Board's mission of consumer protection by greatly increasing Board access to medical records, which are a critical piece of evidence in most investigations.

Unfortunately, the Board's current record inspection authority is limited to records pertaining to patients who have complained about a licensee². In circumstances, for example, related to inappropriate prescribing of pain medications or matters related to COVID-19, complaints often come from a patient's friend, family member, or from a member of the public.

Regrettably, without timely access to necessary medical records, the Board's investigations are delayed, often leading to increases to costs and the amount of time consumers must wait before disciplinary action may be taken. In some circumstances, lengthy investigations must be closed due to the statute of limitations (generally requires an accusation to be filed three years after receipt of a complaint).

¹ See [Government Code section 12528.1](#)

² See [Business and Professions Code \(BPC\) section 2225 \(a\)](#)

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In the Board's 2020 Sunset Review Report³, we provided suggested statutory language that includes the following additional requirements to this requested enhanced authority:

- Require training for investigators leading inspection teams
- Require development of protocols to ensure that inspections are conducted during normal business hours and in the least intrusive manner possible
- Provide that the beneficiary or personal representative of a deceased patient has 15 days to object to a Board request for that patient's records

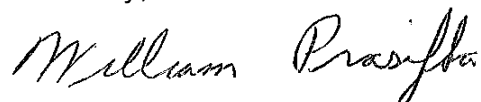
The Board takes seriously the privacy of patient medical records that it obtains during an investigation and diligently maintains confidentiality throughout the disciplinary process, in accordance with the law.

Timely Access to Pharmacy Records

Section two of SB 920 will help ensure that the Board receives pharmacy records in a timely manner when needed for an investigation. Current law merely requires pharmacy records to be provided to the Board "within a reasonable time⁴." This proposal requires a pharmacy to respond to a request for records in the same timeframe as if the records were requested by the Board of Pharmacy, in as little as three business days.

Thank you again for your support of these key Board priorities. Please contact Aaron Bone, Chief of Legislation and Public Affairs, at (916) 274-6251 or via email at Aaron.Bone@mbc.ca.gov if you have any questions.

Sincerely,



William Prasifka
Executive Director

cc: Members of the Senate Committee on Business, Professions, and Economic Development
Sarah Mason, Senate Committee on Business, Professions, and Economic Development
Kayla Williams, Senate Republican Caucus

³ See [report](#) pages 212-215

⁴ See [BPC section 4332](#)