



MEMORANDUM

DATE	July 29, 2022
TO	Board Members
FROM	Mark Ito Executive Director
SUBJECT	Agenda Item #8 – Legislative Report

Listed below are the key bills that the Board has been following:

AB 646 Department of Consumer Affairs: boards: expunged convictions
 Low (D), Cunningham (R) and Gipson (D)

Summary: This bill would require a board within the Department of Consumer Affairs that has posted on its online license search system that a person’s license was revoked because the person was convicted of a crime, within 90 days of receiving an expungement order for the underlying offense from the person, if the person reapplies for licensure or is relicensed, to post notification of the expungement order and the date thereof on its online license search system. The bill would require the board, on receiving an expungement order, if the person is not currently licensed and does not reapply for licensure, to remove within the same period the initial posting on its online license search system that the person’s license was revoked, and information previously posted regarding arrests, charges, and convictions. The bill would require the board to charge a fee of \$25 to the person to cover the reasonable regulatory cost of administering the bill’s provisions unless there is no associated cost. The bill would require the fee to be deposited by the board into the appropriate fund and would make the fee available only upon appropriation by the Legislature.

Board Analysis: This bill requires the Board, upon request from the licensee who provides an expungement order, to remove discipline documents covered by the expungement order from Breeze and License Search or post the expungement order. Complying with this bill would add additional workload to the enforcement unit. However, to compensate the Board for the additional workload, the bill allows the Board to charge a \$25 per expungement request. This \$25 fee is reasonable to compensate for the added workload generated by the requests.

Fiscal Impact: The Board estimates receiving five expungement requests per year as a result of this bill and each request would take four hours to process. The cost to process the requests would be equitable to the amount of revenue received for the requests.

INTRODUCED: February 12, 2021
LAST AMENDED: January 24, 2022
DISPOSITION: Pending
LOCATION: Senate Committee on Appropriations
STATUS: August 1, 2022 – Hearing scheduled with the Senate Committee on Appropriations

AB 657 Healing arts: expedited licensure process: applicants providing abortion services
Cooper (D)

Summary: This bill would require the Medical Board of California, the Osteopathic Medical Board of California, the Board of Registered Nursing, and the Physician Assistant Board to expedite the licensure process of an applicant who can demonstrate that they intend to provide abortions within their scope of practice and would specify the documentation an applicant would be required to provide to demonstrate their intent.

Board Analysis: The expedited licensure process would require the Board to prioritize applications from physicians and surgeons that have documentation that their employer is hiring them to provide abortion services. The Board does not anticipate that this bill would create a significant increase in applications.

Fiscal Impact: The Board anticipates that this bill would create a minor workload increase. Specifically, the Board anticipates receiving approximately 40 applications from physicians and surgeons intending to provide abortions.

INTRODUCED: February 12, 2021
LAST AMENDED: June 21, 2022
DISPOSITION: Pending
LOCATION: Senate Committee on Appropriations
STATUS: August 1, 2022 – Hearing scheduled with the Senate Committee on Appropriations

AB 1604 The Upward Mobility Act of 2022: boards and commissions: civil service: examinations: classifications
Holden (D)

Summary: This bill would, among other things, establish that it is the policy of the state that the composition of state boards and commissions be broadly reflective of the general public, removing reference to ethnic minorities or women from this policy. This bill would also require, on or after January 1, 2023, all state boards and commissions consisting of one or more volunteer members or commissioners, to have at least one volunteer board member or commissioner from an underrepresented community. This bill would further clarify that new board or commission members should be replaced, under these parameters, as vacancies occur.

Board Analysis: The demographic categories could potentially impact the Board's Physician and Surgeon survey. The Board no longer recommends taking a position on this bill. This bill mostly applies to CalHR exam and hiring requirements. Board composition is a small part of this bill.

Fiscal Impact: The Board does not anticipate a fiscal impact as a result of this bill. Any cost to adjust the Board's Physician and Surgeon Survey would be absorbed within existing resources.

INTRODUCED: January 4, 2022
LAST AMENDED: June 30, 2022
DISPOSITION: Pending
LOCATION: Senate Committee on Appropriations
STATUS: August 1, 2022 – Hearing scheduled with the Senate Committee on Appropriations

AB 1636 Physician's and surgeon's certificate: registered sex offenders
Weber (D)

Summary: This bill would authorize a board to deny a license based on formal discipline that occurred earlier than seven years preceding the date of application if the formal discipline was based on conduct that, if committed in this state by a licensed physician and surgeon, would have constituted an act of sexual abuse, misconduct, or relations with a patient or sexual exploitation. Additionally, this bill would prohibit the Board from reinstating the license of a physician and surgeon that had their license revoked or surrendered because they committed certain sex offenses or sexual misconduct with a patient.

Board Analysis: This bill changes the outcome of cases involving an existing sexual misconduct violation. Since the Board already processes enforcement cases involving sexual misconduct, this bill does not increase enforcement workload; this bill impacts the outcome of the related cases.

Fiscal Impact: The Board does not anticipate a fiscal impact as a result of this bill. There may be some IT costs associated with this bill due to added enforcement codes to the BreZE system, but these costs would be absorbed within existing maintenance resources.

INTRODUCED: January 12, 2022
LAST AMENDED: April 20, 2022
DISPOSITION: Pending
LOCATION: Senate Committee on Appropriations
STATUS: August 1, 2022 – Hearing scheduled with the Senate Committee on Appropriations

AB 1662 Licensing boards: disqualification from licensure: criminal conviction
Gipson (D)

Summary: This bill would require a board to establish a process by which prospective applicants may request a preapplication determination as to whether their criminal history could be cause for denial of a completed application for licensure by the board. The bill would provide that the preapplication determination, among other things, may be requested by the prospective applicant at any time prior to the submission of an application and would require the board to include specified written information regarding the criteria used to evaluate criminal history and how the prospective applicant may challenge a denial by the board. The bill would provide that a preapplication determination does not constitute a denial or disqualification of an application and would prohibit requiring a preapplication determination for licensure or for participation in any education or training program. The bill would require a board to publish information regarding its process for requesting a preapplication determination on its internet website and authorize a board to charge a fee to be deposited by the board into the appropriate fund and available only upon appropriation by the Legislature.

Board Analysis: This bill would create a significant workload increase for the Board. This would require the Board to make a predetermination on licensure from prospective applicants who have been convicted of a crime. The Board anticipates receiving a total of 330 requests from prospective applicants. Additionally, there is an appeal process that would significantly increase the cost to implement this bill.

Fiscal Analysis: The Board anticipates that the increase in workload due to this bill will require one additional staff to process the 330 predetermination applications. Additionally, the cost to implement the appeal portion of the bill will be approximately \$263,000. These costs cannot be absorbed within existing resources, therefore the Board would need to request these resources through the annual budget process.

INTRODUCED: January 18, 2022
LAST AMENDED: April 27, 2022
DISPOSITION: Pending
LOCATION: Senate Committee on Appropriations
STATUS: August 1, 2022 – Hearing scheduled with the Senate Committee on Appropriations

Position: Staff Recommendation = Oppose

AB 1954	Physicians and surgeons: treatment and medication of patients using cannabis Quirk (D)
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Summary: This bill would prohibit a physician and surgeon from denying treatment or medication to a qualified patient based solely on a positive drug screen for tetrahydrocannabinol (THC) or report of medical cannabis use without first completing a case-by-case evaluation of the patient that includes a determination that the qualified patient's use of medical cannabis is medically significant to the treatment or medication. The bill would provide that use of medical cannabis that has been recommended by a licensed physician and surgeon shall not constitute the use of an illicit substance in such an evaluation. The bill would provide that a physician and surgeon shall not be punished, or denied any right or privilege, for having administered treatment or medication to a qualified patient pursuant to the bill and consistent with the standard of care.

Board Analysis: This bill clarifies existing law related to the use of cannabis as it applies to physicians treating patients that either test positive for THC or who are using medical cannabis. Specifically, even though cannabis is a controlled substance under federal law, a physician shall not deny treatment to a patient that has tested positive for THC or is using cannabis for medical treatment. Additionally, a physician cannot be punished for treating patients with medical cannabis.

While the bill adds a new section to BPC, it does not add a new violation for enforcement purposes. Rather it modifies the outcome of cases involving use of medical cannabis by patients of physicians. For this reason, the bill would not increase the enforcement workload for the Board.

Fiscal Impact: No fiscal impact

INTRODUCED: February 10, 2022
LAST AMENDED: May 19, 2022
DISPOSITION: Pending
LOCATION: Senate Committee on Appropriations
STATUS: June 28, 2022 – Ordered to third reading

AB 2055 Controlled substances: CURES database
Low (D)

Summary: This bill would remove the Controlled Substance Utilization Review and Evaluation System (CURES) database from the Department of Justice to the California State Board of Pharmacy.

Board Analysis: The Board utilizes the CURES database during the course of investigating its licensees for enforcement cases involving among other things, overprescribing. The database is currently maintained by the Department of Justice. The Board does not believe moving the database to the California State Board of Pharmacy will change the functionality nor costs currently distributed to the Board.

Fiscal Impact: No anticipated fiscal impact

INTRODUCED: February 14, 2022
LAST AMENDED: April 21, 2022
DISPOSITION: Pending
LOCATION: Assembly Committee on Appropriations
STATUS: May 19, 2022 – Held under submission

AB 2098 Physicians and surgeons: unprofessional conduct
Low (D)

Summary: This bill would designate the dissemination of misinformation or disinformation related to the SARS-CoV-2 coronavirus, or “COVID-19,” as unprofessional conduct.

Board Analysis: The Board supports the intention of this bill but is concerned over the vagueness of the term “misinformation”. This vagueness can be resolved with a clear definition of “misinformation” in the bill that ties information to the standard of care.

This bill adds a new enforcement violation to the business and professions code related to a physician providing misinformation about COVID19. This bill deems this new violation as unprofessional misconduct. There will be increased workload as a result of this bill and the Board will be required to add new enforcement codes to the BreZE system.

Fiscal Impact: The Board anticipates receiving approximately 10 additional cases as a result of the bill, which would result in approximately 220 hours of additional workload. If the Board is unable to absorb this additional workload, a legislative budget change proposal will be submitted during the annual budget process.

INTRODUCED: February 14, 2022
LAST AMENDED: June 21, 2022
DISPOSITION: Pending
LOCATION: Senate Committee on Appropriations
STATUS: August 1, 2022 – Hearing scheduled with the Senate Committee on Appropriations

Position: Staff Recommendation = Support if amended

AB 2626

Medical Board of California: licensee discipline: abortion
Calderon (D)

Summary: This bill would prohibit the Medical Board of California and the Osteopathic Medical Board of California from suspending or revoking the certificate of a physician and surgeon solely for performing an abortion if they performed the abortion in accordance with the provisions of the Medical Practice Act and the Reproductive Privacy Act. The bill would also prohibit the Board of Registered Nursing and the Physician Assistant Board from suspending or revoking the certification or license of a nurse practitioner, nurse-midwife, or a physician assistant for performing an abortion if they performed the abortion in accordance with the provisions of the Nursing Practice Act or the Physician Assistant Practice Act, as applicable, and the Reproductive Privacy Act.

Board Analysis: This bill prohibits physicians and surgeons from having their license revoked for performing abortions. The policy context of this bill is to prepare California for being the legal option for women to have the procedure performed with no penalty to physicians and surgeons.

Fiscal Impact: No fiscal impact.

INTRODUCED: February 18, 2022
LAST AMENDED: June 20, 2022
DISPOSITION: Pending
LOCATION: Senate Committee on Appropriations
STATUS: August 1, 2022 – Hearing scheduled with the Senate Committee on Appropriations

AB 2790

Reporting of crimes: mandated reporters
Wicks (D)

Summary: This bill would, on and after January 1, 2024, remove the requirement that a health practitioner make a report to law enforcement when they suspect a patient has suffered physical injury caused by assaultive or abusive conduct. Additionally, this bill requires a health care practitioner who suspects that a patient has suffered physical injury that is caused by domestic violence to provide brief counseling, education, or other support, and a warm handoff or referral to local and national domestic violence or sexual violence advocacy services. This bill also specifies that a health care practitioner is not civilly or criminally liable for any report that is made in good faith and is in compliance with these provisions.

Board Analysis: The intention of the bill was to improve how victims of domestic violence are handled by the mandatory reporting law. Instead of reporting to law enforcement, the physician should refer them for counseling or domestic violence services. They may still report, but they are not mandated to report to law enforcement if doing so may pose risk or harm to the patient.

Fiscal Impact: This bill would not have a fiscal impact on the Board because the nature of the amendments does not add a new violation or crime, it modifies an existing one. The bill would not create any additional workload for the Board.

INTRODUCED: February 18, 2022
LAST AMENDED: June 30, 2022
DISPOSITION: Pending
LOCATION: Senate Committee on Appropriations
STATUS: August 1, 2022 – Hearing scheduled with the Senate Committee on Appropriations

SB 189 Committee on Budget and Fiscal Review. State Government
(Committee on Budget and Fiscal Review)

Summary: This bill, until July 1, 2023, would authorize, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda

Board Analysis: This bill was signed by the Governor on June 30, 2022, and took effect immediately. This bill reinstutes, through July 1, 2023, the remote meeting provisions of the Bagley-Keene Open Meeting Act that were in place during the pandemic. The Board is hopeful that a permanent solution will be put in place prior to July 1, 2023. Although the Board plans to meet in person at least once a year, this bill gives the Board the flexibility to conduct board business remotely, if necessary.

Fiscal Impact: The Board anticipates a cost savings of approximately \$14,000 per year.

INTRODUCED: January 8, 2021
LAST AMENDED: June 26, 2022
DISPOSITION: Chaptered
STATUS: June 30, 2022 – Approved by the Governor and chaptered by the Secretary of State

SB 731 Criminal records: relief
Durazo (D) and Bradford (D)

Summary: This bill would continue recent criminal justice reforms by expanding felonies that are eligible for automatic record sealing to include convictions for certain felonies that resulted in incarceration, as long as the individual has completed their sentence and has not been convicted of a new felony offense for four years.

Board Analysis: The purpose of this bill is to provide relief to those convicted of crimes (except sex offenders) when they apply for jobs. From a policy standpoint, this bill reduces the Board's enforcement ability related to those with a criminal background.

Fiscal Impact: No fiscal impact

INTRODUCED: February 19, 2021
LAST AMENDED: June 23, 2022
DISPOSITION: Pending
LOCATION: Senate.
STATUS: June 30, 2022 – Concurrence in Assembly amendments pending

SB 923 Gender-affirming care
Wiener (D)

Summary: Existing law requires physicians and surgeons to demonstrate satisfaction of continuing education requirements, including cultural competency in the practice of medicine. This bill would expand cultural competency training to include information and evidence-based cultural competency pertinent to the treatment of, and provision of care to, individuals who identify as queer, questioning, asexual, or gender diverse, and the processes specific to those seeking gender-affirming care services.

Board Analysis: This bill expands the categories of required continuing education to include new topics pertaining to gender affirming terminology and resources. This new gender affirming category is one of many categories that physicians and surgeons may choose from to meet their continuing education requirement for licensure.

Fiscal Impact: This bill does not create a fiscal impact for the Board. The bill language does not generate increased workload or expenditures.

INTRODUCED: February 3, 2022
LAST AMENDED: June 23, 2022
DISPOSITION: Pending
LOCATION: Assembly Committee on Appropriations
STATUS: August 3, 2022 – Hearing scheduled with the Assembly Committee on Appropriations

SB 1237 Licenses: military service
Newman (D)

Summary: Current law requires the Board to waive the renewal fees, continuing education requirements and other renewal requirements of any licensee who is called to active duty as a member of the United States Armed Forces or the California National Guard. This bill defines the phrase “called to active duty” to include active duty in the United States Armed Forces or on duty in the California National Guard.

Board Analysis: This bill clarifies the intention of Business and Professions Code section 114.3 by expanding and defining who qualifies as being on active duty. The bill defines any licensee that is currently on active duty in United States Armed Forces or the California National Guard is included in the waiver of renewal requirements. The Board already waives the renewal requirements for military licenses called to active duty in California. This bill will ensure that out of state licensees are also eligible for this waiver.

Fiscal Impact: The Board anticipates receiving license renewals from 15 licensees annually that would qualify for the waiver. The fiscal impact of waiving the renewal fees for 15 licensees is \$6,705 per year.

INTRODUCED: February 17, 2022
LAST AMENDED: March 30, 2022
DISPOSITION: Pending
LOCATION: Assembly Committee on Appropriations
STATUS: August 3, 2022 – Hearing scheduled with the Assembly Committee on Appropriations

SB 1441 Healing Arts: nonconventional treatment
Roth (D)

Summary: Existing law requires the Board to establish disciplinary policies and procedures to reflect emerging and innovative medical practices for licensed physicians and surgeons. This bill would require the Board to annually review, and update, if necessary, these policies and procedures.

Board Analysis: This bill would require annual review and update of disciplinary policies and procedures. Addressing emerging issues and innovations requires significant research and may involve the formation of a committee to provide expert recommendations to the Board. This is a time-consuming process that would require an additional staff member to conduct policy research and draft regulations.

Fiscal Impact: The Board anticipates that this bill would create a significant workload increase. The Board would need a Staff Services Manager I or an analyst to complete the additional workload created by this bill. The Board would be unable to absorb these costs within existing resources and would request these resources through the annual budget process.

INTRODUCED: February 18, 2022
DISPOSITION: Pending
LOCATION: Assembly Committee on Appropriations
STATUS: August 3, 2022 – Hearing scheduled with the Assembly Committee on Appropriations

SB 1443 The Department of Consumer Affairs
Roth (D)

Summary: This is the Sunset bill for the Dental Board of California, California Board of Accountancy, and the California Architects Board. Specific to the Osteopathic Medical Board, this bill specifies that physician and surgeon's certificates shall be issued for two years and shall expire at midnight of the last day of the month in which the license was issued.

Board Analysis: This bill eliminates the Board's prorated initial licensing process. Eliminating the prorated licensure process would allow the Board to comply with the provisions set forth in SB 806, create a workload decrease while increasing consumer satisfaction

Fiscal Impact: There is no fiscal impact as a result of this bill. Eliminating the prorated licensing process is revenue neutral. This bill changes the time when the revenue is received but doesn't increase or decrease the revenue collected.

INTRODUCED: February 18, 2022
LAST AMENDED: June 21, 2022
DISPOSITION: Pending
LOCATION: Assembly Committee on Appropriations
STATUS: August 3, 2022 – Hearing scheduled with the Assembly Committee on Appropriations

Position: Staff Recommendation = Support