

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

BILL NUMBER: SB 815
AUTHOR: Roth
CHAPTER: Chaptered, #294
BILL DATE: September 11, 2023, Amended
SUBJECT: Healing Arts
SPONSOR: None
POSITION: Support, if Amended

DESCRIPTION OF CURRENT LEGISLATION

This is the sunset bill for the Medical Board of California (Board) and it includes various statutory changes requested by the Board, most notably, physician fee increases and the establishment of a complainant liaison unit.

RECENT AMENDMENTS

After the Board's August 24-25 meeting, SB 815 was amended, as follows:

- Delayed the implementation of the Complainant Liaison Unit (CLU) and the requirement to interview complainants prior to closing quality-of-care complaints until six months after the allocation of new staff positions in the annual Budget Act.
- Reformed the provisions related to felony convictions to state that for certain violations of the Medical Practice Act involving sexual misconduct and other specified felony convictions, the Board does not require an expert witness to prove the relationship between that conviction and the practice of medicine. Under these provisions, the Board shall automatically suspend a license following the licensee's conviction. After the conviction becomes final, the Board shall revoke the license. Within 30 days of the suspension and/or revocation orders, the licensee may request an administrative hearing to determine whether discipline other than suspension or revocation shall be imposed.
- Repealed Business and Professions Code (BPC) section 2270, which states that it is unprofessional conduct for a physician and surgeon to disseminate misinformation or disinformation, as defined, related to COVID-19.
- Deleted the language that would have established a preponderance of evidence standard for an accusation that would result in any form of discipline other than suspension or revocation.

- Reduced the proposed initial licensure and renewal fee for physician and surgeon licensee from \$1,289 to \$1,151, effective January 1, 2024. States that same fee amount will increase to \$1,255, effective January 1, 2027.
- Stated that the Board may have a reserve fund of no more than the Board's operating budget for a six-month period.
- Included technical or non-substantive changes related to the Mexico Pilot Program (MPP), requirements related to Board members and venues for legal proceedings against the Board, the transfer of the Research Psychoanalyst Program to the Board of Psychology, processing patient statements of harm, and various changes to help ensure that SB 815 and other bills do not "chapter out" certain code sections being amended by multiple bills.

IMPLEMENTATION TASKS

- **Communications**

- Create [webpage](#) discussing major provisions of SB 815 and post the link on the Board's News webpage (completed).
- Newsletter: 2023 article on major provisions/patient impact statements (expected to be completed in late 2023).
- Newsletter: 2024 article on complainant liaison unit/complainant interviews (after new positions approved in state budget)
- Coordinate with the Board of Pharmacy to notify pharmacies regarding new deadlines to provide pharmacy records (expected to be completed by November 2023).

- **Enforcement**

- Establish procedures to collect and process patient impact statements (to be completed by end of 2023).
- Obtain position approval, hire, train staff related to complainant liaison unit and complainant interview functions; update appropriate Board website content (to be completed six months after legislative approval of new staff positions).
- Develop process to engage with consumer stakeholders on the operations of the complainant liaison unit (to be completed by Q2 2024).

- Begin rulemaking activities to establish a fee to file a petition for reinstatement or penalty relief (process has been initiated; completion timeframe is to be determined).
- **Licensing**
 - Update initial licensure and renewal processes to reflect new fee amounts (completed).
 - Update online license applications to reflect new PTL timeline and change to initial renewal requirement. (to be completed by December 2023)
 - Conduct webinars for postgraduate training programs and applicants regarding licensing law changes (starting December 2023; to be completed in Q2 2024).
 - Coordinate with the Board of Psychology and the Department of Consumer Affairs on the transfer of the Research Psychoanalyst Program – (to be completed by December 2024).
 - Update Board website, as appropriate, regarding new licensing laws (to be completed by end of 2023).
 - Develop process to review requests from eligible MPP holders seeking an extension of their expiration date (to be completed by January 2024).

BACKGROUND

Sunset review is the Legislature’s regular process to review the operations, budget, and other laws related to the boards and bureaus within the Department of Consumer Affairs (DCA). To extend the authority to appoint the Members of the Board and the Board’s Executive Director, the Legislature and Governor must enact a bill this year. The next sunset date for the Board is January 1, 2028.

In December 2022, the Board approved its [Sunset Review Report](#), which contained various statutory requests for the Legislature to consider enacting into law, which are discussed in Section 12, New Issues.

ANALYSIS

The bill provides for the following:

1. Extends the Board’s sunset date by four years, to January 1, 2028.
2. Authorizes the issuance of a Mexico Pilot Program (MPP) license to those who lack an individual taxpayer identification number or social security number, as specified. Authorizes the Board to extend the expiration date of an MPP license, based on certain delays the licensee has faced, as specified.

3. Requires creation of a complainant liaison unit (CLU), with specified duties. Delays the implementation of this requirement until six months after the Board is allocated additional positions to fulfill these duties.
4. States that a postgraduate training license (PTL) shall be valid for a 36-month period after issuance, including any active PTLs issued on or after January 1, 2020.
5. Requires, for all quality-of-care complaints, that the complainant, patient, or patient representative be interviewed before the complaint is closed, as specified. Delays the implementation of this requirement until six months after the Board is allocated additional positions to fulfill these duties.
6. Tolls the statute of limitations when seeking to enforce a subpoena for medical records against a licensee.
7. Requires pharmacy records, generally, to be provided to the Board within three days of a Board request.
8. States that for certain violations of the Medical Practice Act involving sexual misconduct and specified felony convictions, the Board does not require an expert witness to prove the relationship between that conviction and the practice of medicine. Under these provisions, the Board shall automatically suspend a license following the licensee's conviction. After the conviction becomes final, the Board shall revoke the license. Within 30 days of the suspension and/or revocation orders, the licensee may request an administrative hearing to determine whether discipline other than suspension or revocation shall be imposed.
9. States that the following actions constitute unprofessional conduct:
 - a. Not sitting for an investigational interview within 30 days after notification by the Board.
 - b. Any action by the licensee, or someone acting on their behalf, intended to cause their patient or the patient's representative to rescind their consent to release medical records.
 - c. Dissuading, intimidating, or tampering with a patient, witness, or any person in an attempt to prevent them from reporting or testifying about a licensee.
10. Requires a physician to maintain patient records for at least seven years after the last date of service to their patient.
11. Repeals BPC section 2270, which states that it is unprofessional conduct for a physician and surgeon to disseminate misinformation or disinformation, as defined, related to COVID-19.
12. Increases wait times for those petitioning the Board for penalty relief (i.e., modify probation terms or license reinstatement); requires automatic denial of a petition to modify/terminate probation if the Board files a petition to revoke probation.
13. Authorizes the Board to establish a fee to be paid by a petitioner seeking license reinstatement or modification of their probation.
14. Requires the Board to provide a statement from a complainant to the Board's disciplinary panels regarding the harm they experienced, as specified.

15. Requires expert witness reports to be exchanged 90 days prior to the originally scheduled commencement date of the hearing before an administrative law judge (ALJ), including any complainant statement received.
16. Authorizes the Board to distribute physician renewal applications electronically and allows the Board to ask questions necessary to establish that the physician currently has no disorder that would impair the physician's ability to practice medicine safely.
17. Increases the physician initial and renewal license fees, as follows:
 - a. Effective January 1, 2024: \$1,151.
 - b. Effective January 1, 2027: \$1,255.
18. States that the Board may have a reserve fund of no more than the Board's operating budget for a six-month period.
19. Transfers the regulation of the Research Psychoanalyst Program to the Board of Psychology, effective January 1, 2025.
20. Includes various technical licensing and enforcement changes requested by the Board, including removal of the obsolete four-month general medicine postgraduate training requirement.
21. Includes certain technical or non-substantive changes to the Medical Practice Act.

FISCAL: Minor one-time costs; approximately \$1.4 million in ongoing expenses for new staff to support workload related to the Complainant Liaison Unit and conducting complainant interviews regarding their quality-of-care complaints.

The anticipated revenue increase is estimated to be between \$5.3M and \$10.7M in Fiscal Year 23-24 and \$21.6M to \$30.2M in future years and, contingent upon an extended loan repayment term, is expected to accommodate any new potential enforcement-related cost increases.

SUPPORT: Osteopathic Medical Board (if amended)
Service Employees International Union – CIR (if amended)

OPPOSITION: California Medical Association (unless amended)

ATTACHMENT: [SB 815, Roth – Healing Arts.](#)
Version: 9/30/23 – Chaptered