

MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

BILL NUMBER: AB 2164  
AUTHOR: Berman  
BILL DATE: April 16, 2024, Amended  
SUBJECT: Physicians and Surgeons: Licensure Requirements:  
Disclosure  
SPONSOR: California Medical Association and Service  
Employees International Union

DESCRIPTION OF CURRENT LEGISLATION

Prohibits the Medical Board of California (MBC) from requiring an applicant for a physician's and surgeon's (P&S) license or a postgraduate training license (PTL) to self-disclose the following:

- A condition or disorder that does not impair the applicant's ability to practice medicine safely.
- A condition or disorder for which the applicant is receiving appropriate treatment and which, because of the treatment, does not impair the applicant's ability to practice medicine safely.

BACKGROUND

California, along with 26 other states, has been recognized by the [Dr. Lorna Breen Heroes' Foundation](#), a national organization dedicated to promoting physician wellbeing, for changing invasive and stigmatizing mental health questions in its license applications.

On February 29, 2024, during the Board's most recent quarterly meeting, the Board President announced that he is appointing a task force to receive input from the public and other stakeholders regarding the current impairment questions and to consider potential changes.

On the Board's physician-related initial licensure applications (P&S, PTL and transition from PTL to P&S), applicants are asked three questions related to practice impairment or limitations.

Preceding those questions, each application states the following:

“An affirmative answer to any of the questions below will not automatically disqualify you from licensure. The Board will make an individualized assessment of the nature, the severity and the duration of the risks associated with an ongoing medical condition to determine whether an unrestricted license should be issued, whether conditions should be imposed, or whether you are eligible for

licensure. Please note that a limited practice license may be available. Refer to the [Application Information for a Limited Practice License](#) for further information.”

The current questions read, as follows:

- “Are you currently enrolled in, or participating in any drug, alcohol, or substance abuse recovery program or impaired practitioner program?”
- “Do you currently have any condition (including, but not limited to emotional, mental, neurological or other physical, addictive, or behavioral disorder) that impairs your ability to practice medicine safely?”
- “Do you currently have any other condition that impairs or limits your ability to practice medicine safely?”

The Board last updated these questions in 2019 to address concerns that they were overly intrusive.

[Business and Professions Code \(BPC\) section 2425](#) authorizes the Board to prepare and provide to physician licensees, either electronically or through the mail, a questionnaire at the time of license renewal that includes any necessary questions to establish that the physician currently has no disorder that would impair the physician’s ability to practice medicine safely. The Board’s current practice is to not ask such questions during the renewal process. That statute also requires the licensee to complete, sign, and return the questionnaire to the Board, as a condition of license renewal.

### ANALYSIS

According to the author’s fact sheet:

“AB 2164 would provide the MBC with clear direction about the scope of the questions it can ask as part of the application process. The bill would prohibit the MBC from requiring applicants to disclose any condition or disorder that does not impair their ability to practice medicine safely, including those for which they are receiving appropriate treatment.”

According to the sponsors of the bill:

“Physicians, like everyone else, can experience stress, burnout and mental health challenges due to the demanding nature of their work. Resident physicians have twice the rate of suicide than the general population. Seeking mental health services can be crucial for maintaining balance, resilience, and overall well-being, benefiting both physicians and their patients. Removing the requirement to disclose their mental health services on physician and surgeon licensure applications alleviates concerns of repercussions and allows physicians

to seek mental health services, to the benefit of both themselves and their patients.”

Under this bill, the Board would be required to remove, or significantly alter, the first question on its initial physician licensure applications, which asks whether the applicant is currently enrolled in, or participating in any drug, alcohol, or substance abuse recovery program or impaired practitioner program. The other two questions specifically inquire about conditions that impair or limit their ability to practice medicine safely; therefore, AB 2164 would not require the Board to change those questions.

If an applicant discloses that they currently have a condition or disorder that impairs their ability to practice medicine safely, the bill requires the Board to provide the applicant with information on the availability of a probationary or limited practice license. The application form already provides information about a limited practice license and, if necessary, based upon an evaluation of the applicant’s circumstances, the Board may offer a probationary license to the applicant, under the terms of a stipulated settlement.

If the Board decided to add an impairment questionnaire to the license renewal application, as authorized by BPC section 2425, those questions must comply with the requirements of this bill.

**Consideration of a Board Position**

The Board asks those questions on the initial physician licensure applications to help determine whether the applicant can safely practice medicine. The questions are not intended to create a barrier to those who would benefit from mental health treatment.

Although AB 2164 allows the Board to continue to inquire about potentially impairing conditions, it could be argued that the ideal process for these questions to be updated is through the existing Board process involving public discussions where any interested individual or organization can provide input on the content and purpose of these questions.

If the Board agrees with the preceding paragraph, the staff recommends a Support, if Amended position on the bill to seek amendments that would remove the current bill language and replace it with a requirement for the Board to complete a public process to consider changes to the impairment questions on the physician-related applications no later than July 1, 2026 and include a report of the Board’s actions on this matter in its 2025-2026 Annual Report, which is required to be submitted to the Legislature by October 1, 2026.

FISCAL: Minor, one-time expenses related to updating the application questions and related website content.

SUPPORT: California Orthopedic Association  
San Francisco Marin Medical Society

OPPOSITION: None identified.

POSITION: Recommendation: Support, if Amended

ATTACHMENT: [AB 2164, Berman – Medical Practice Act: Renewal of Licenses](#)  
Version: 4/16/24 – Amended