

LEGISLATIVE PROPOSALS 2014

Sunset Review Proposals

The Board included new issues in its 2012 Sunset Review Report to the Legislature and in its 2013 Supplemental Report. These reports were submitted to the Legislature and the Legislature prepared a background paper that raised 39 issues, some of them related to the new issues included in the Board's Sunset Review Report. Some of the new issues that were included in the Board's Sunset Review Report that would require legislation were not included in the Board's Sunset Bill, SB 304. Board staff has identified the following proposals to move forward in 2014 (issues that the Legislature directed the Board to take some other action before proposing new legislation are not included):

- The Board recommended that, in the interest of consumer protection, legislation be written to require that regulations be adopted for physician availability in all clinical settings and for the Board to establish, by regulation, the knowledge, training, and ability a physician must possess in order to supervise other health care providers.
- The Board recommended that a section be added to existing law to require coroners to report all deaths related to prescription drug overdoses to the Board – this language was contained in SB 62 (Lieu), which the Board supported, but was vetoed by the Governor for fiscal reasons. Board staff would like to continue to work with Senate Business, Professions, and Economic Development Committee on this important consumer protection issue.
- The Board recommended elimination of the ten year posting requirement in existing law in order to ensure transparency to the public. In the Committee's background paper, it was recommended that in the interest of transparency and disclosure of information to the public, existing law should be amended to remove the 10 year limit on how long information should be posted on the Board's Internet Web site. However, SB 304 did not include language that would remove the 10 year limit on posting information.
- The Board recommended amending existing law to require a respondent to provide the full expert reviewer report and to clarify the timeframes in existing law for providing the reports, such as 90 days from the filing of an accusation. SB 304 did include language that would have required the complete expert reviewer report to be provided 90 calendar days prior to the commencement of the hearing. However, after many meetings with the California Medical Association (CMA) and the Legislature on amendments to address CMA's concerns, the language was pulled from SB 304.
- The Board recommended that existing law be amended to include American Osteopathic Association-Healthcare Facilities Accreditation Program as an approved accreditation agency for hospitals offering accredited postgraduate training programs. This item, suggested in the Supplemental Report, was not addressed by the background paper as it

was included after the paper was drafted and language was not included in SB 304. This is a potential omnibus candidate.

Outpatient Settings Legislative Proposals

- Per existing law, Health and Safety Code Section 1216, clinics licensed by the California Department of Public Health (CDPH), including surgical clinics, are required to report aggregate data to the Office of Statewide Health Planning and Development (OSHPD). This data includes number of patients served and descriptive background, number of patient visits by type of service, patient charges, and any additional information required by CDPH and OSHPD. Before *Capen v. Shewry*, this data was being collected for the majority of outpatient settings, as they were licensed as surgical clinics. However, when physician-owned outpatient settings fell under the jurisdiction of the Board, this reporting was no longer required, which resulted in a serious deficiency of outpatient settings data. Board staff is suggesting that the data collection requirements be put into place for accredited outpatient settings; the data required for reporting would be very similar to the data that surgical clinics are required to report to OSHPD. The Board would work closely with OSHPD on this proposal.
- Existing law (Business and Professions Code Section 2240 (a)) requires a physician who performs a scheduled medical procedure outside of a general acute care hospital, that results in a death, to report the occurrence to the Board within 15 days. The Board would like to ensure all deaths in outpatient settings are reported to the Board, not just those that resulted from a scheduled medical procedure. Board staff suggests striking “scheduled” from existing law. This is a potential omnibus candidate.
- The Outpatient Settings Task Force will also be bringing some legislative proposals to the Board.