Agenda Item 8a - Enforcement Program

Bullet 1 – Legislative Update: Senate Bill 62 (Price)

Pages 1 - 8

MEDICAL BOARD OF CALIFORNIA
Executive Office

May 7, 2013

The Honorable Curren D. Price, Jr.
California State Senate
State Capitol, Room 2057
Sacramento, CA 95814

Re.: **SB 62 (Price) – Support Position**

Dear Senator Price:

The Medical Board of California (Board) considered your SB 62 at its meeting on April 26, 2013. The Board has changed its position from support if amended to support. This bill would require coroners to report deaths to Board when the contributing factor in the cause of death is related to toxicity from a Schedule II, III, or IV drug. This bill would specify that the initial report must include the name of the decedent, date and place of death, attending physicians, podiatrists, or physician assistants, and all other relevant information available. This bill would require the initial report to be followed, within 90 days or as soon as possible once the coroner's final report of investigation is complete, by copies of the coroner's report, autopsy protocol, and all other relevant information.

The Board included a proposal for required coroner reporting prescription drug related deaths in its Sunset Review Report, and believes that requiring deaths related to prescription drug use to be reported to the Board would allow the Board to review the documentation to determine if the prescribing physician was treating in a correct or inappropriate manner. This would increase consumer protection and ensure the Board is notified of physicians who might pose a danger to the public. I would like to thank you and your staff for working with the Board and taking our suggested amendment related to narrowing the types of reports the Board will receive, and I look forward to working with you and your staff to ensure passage of this important consumer protection measure.

Please contact my Chief of Legislation, Jennifer Simoes, or me at (916) 263-2389 if you need additional information regarding our position on this bill.

Sincerely,

Linda K. Whitney
Executive Director

cc: Senator De Leon, Chair, Senate Appropriations Committee

MEDICAL BOARD OF CALIFORNIA
LEGISLATIVE ANALYSIS

Bill Number: SB 62
Author: Price
Bill Date: April 22, 2013, Amended
Subject: Coroners: Reporting Requirements: Prescription Drug Use
Sponsor: Author
Position: Support

STATUS OF BILL:

This bill is in the Senate Appropriations Committee.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would require a coroner to report deaths to the Medical Board of California (Board) when the contributing factor in the cause of death is related to toxicity from a Schedule II, III, or IV drug. This bill was amended to only require the reports to be filed with the Board and to narrow the deaths reported to those deaths related to toxicity from a Schedule II, III, or IV drug.. The initial report must include the name of the decedent, date and place of death, attending physicians, podiatrists, or physician assistants, and all other relevant information available. The initial report shall be followed, within 90 days, by copies of the coroner's report, autopsy protocol, and all other relevant information.

This bill was amended to allow the follow-up coroner's report and autopsy protocol to be filed within 90 days or as soon as possible once the coroner's final report of investigation is complete. The amendments now only require the report to be filed with the Board and only require the initial report to include specified information when that information is known. The amendments specify that the other relevant information should include any information available to identify the prescription drugs, prescribing physicians, and dispensing pharmacy.

The amendments also make similar changes to existing law on the 90-day timeline and confidentiality of the report for mandatory coroner reporting for deaths that may be the result of a physician's, podiatrists' or physician assistant's gross negligence or incompetence.

ANALYSIS:

Existing law, Business and Professions Code Section 802.5, requires a coroner to report to the Board (and the OMBC , BPM, and PAB) when he/she receives information based on findings by a pathologist indicating that a death may be the result of a physician's gross negligence or incompetence. This section requires the coroner to make a determination that the death *may* be the result of the physician's gross negligence or incompetence. Requiring

coroners to make the determination, could be the reason the Board has seen a decrease in coroners reports; the number of reports received by the Board is at an all-time low. Only four reports were received in FY 2011/12, and only one of the reports indicated a drug related death.

The Board has reason to believe that numerous death have occurred in California that are related to prescription drug overdoses. However, complaints regarding drug-related offenses are often hard for the Board to obtain. In most instances, patients who are receiving prescription drugs in a manner that is not within the standard of practice, are unlikely to make a complaint to the Board. Some complaints regarding overprescribing come from anonymous tips, which usually do not have enough information to allow forwarding to the Board's district office for investigation, as there is no patient to obtain records for or not enough information to open an investigation. Family members of patients may make a complaint to the Board; however, the Board must have a patient release in order to obtain medical records or seek a subpoena. Sometimes it is difficult to obtain evidence to warrant a subpoena, or the family is not responsive.

The Board included a proposal for required coroner reporting prescription drug related deaths in its Sunset Review Report, as a new issue for the Legislature's consideration. Requiring deaths related to prescription drug use to be reported to the Board would allow the Board to review the documentation to determine if the prescribing physician was treating in a correct or inappropriate manner. This would increase consumer protection and ensure the Board is notified of physicians who might pose a danger to the public, so action can be taken prior to another individual suffering the same outcome. If only one physician was found to be overprescribing, this could save numerous lives.

Senator Price introduced this bill in response to several articles run by the LA Times. These articles included cases of physicians prescribing opioid prescription drugs to multiple patients, which may have resulted in these patients' deaths. The Senator introduced this bill to ensure that the Board has knowledge about these types of cases in the future, so the Board can review these cases, investigate, and take appropriate disciplinary action against physicians prescribing inappropriately.

Requiring coroner reporting of all prescription drug use deaths might be overly broad and interpreted to include deaths that occurred while an individual was taking a non-opioid prescription (i.e., antibiotics). The Board voted to support SB 62 if it is narrowed to only include coroner reporting of deaths related to Schedule II and III controlled substances. The bill has been recently amended to narrow the deaths reported to the Board to those in which a contributing factor in the cause of death is related to toxicity from a Schedule II, III, or IV drug.

The Board also requested an amendment to ensure that coroners report these deaths to all boards responsible for licensing prescribers. Of note, the bill was recently amended to only require the coroner reports to go to the Board to make it more efficient for coroners, as they

would only have to send their reports to one board, not multiple boards; this was a concern raised by the coroners in meeting with the author's office. The Board could potentially share/disseminate the coroner reports that include a prescriber or dispenser licensed by another board to the appropriate regulatory board under the Department of Consumer Affairs, as is currently done as part of the complaint process.

FISCAL: Using the total data reported in the LA Times articles, the estimated workload created by this bill would result in the need for 1 additional position to handle the upfront review in the Central Complaint Unit, 4 investigators to handle the cases that go to the field for investigation, and 1 additional position in the Discipline Coordination Unit. This additional workload would also result in $441,500 in costs for expert reviewers for the upfront review, investigation, and hearing. Based upon information received by the Attorney General's (AG's) Office, the approximately 50 cases that would be referred to the AG's office would result in approximately $1,803,700 in costs (out of the 50, it is estimated that 35 would settle, or 70%, and the remaining 15 would go to hearing).

SUPPORT: Center for Public Interest Law
Medical Board of California

OPPOSITION: California Medical Association

SB 62 Fiscal Methodology

The LA Times found 3,733 deaths involving prescription medications from 2006 – 2011. In 1,762 of those cases, one or more drugs prescribed for the deceased caused or contributed to the death (indicating physician prescribing).

1,762 divided by 5, equals 350 deaths per year. According to the US Census Bureau information, the 5 counties that the LA Times included in its data (Los Angeles, Orange, San Diego, and Ventura), make up 45% of California's population. This means that 350 deaths per year is only 45% of the what would be seen for California, making the total number of deaths that would be reported to the Board, approximately 700.

Using existing averages, approximately 75% of the cases do not go to the field for investigation, and 25% of the 700 would go to the field for investigation, a total of 175 cases per year.

Regarding the upfront Central Complaint Unit (CCU) review of the 700 cases, the Medical Board estimates that we would need 1 analyst to handle the upfront review of the 700 potential cases.

For the upfront CCU expert review, it equates to 2.0 hours per case for a total of 1400 hours. At the rate of $75 per hour, this equates to $105,000 for CCU expert review.

For the cases that go to the field, the Board is estimating that the workload would generate the need for 4 new investigators in the field, which equates to 40 cases per investigator (because the workload of each case may not be complex due to the known death of a patient), and 1 analyst in the discipline coordination unit (for 50 cases filed per year).

Of the 175 cases that go to the field, 25% will close at the physician interview level. Thus, 130 cases will need to be reviewed by an expert. At $150 per hour and an average of 15 hours per case, this equates to $292,500 for expert review (review medical records, listen/read physician interview, and write report).

For the 175 cases that go to the field, we are estimating that 50 of these cases, or 30% would need to go to the Attorney General's (AG's) Office for prosecution. According to current statistics, approximately 70% or 35 cases would be resolved through stipulation, and the remaining 30% or 15 cases would go to hearing. According to the AG's office for pain management cases that go to hearing, on average these take about 474 hours at $170/hr which equals $1,208,700 for the 15 cases. For the 35 cases that would result in stipulation, according to the AG's office for pain management cases, on average these take about 100 hours at $170/hr, which equals $595,000, for a total AG cost of 1,803,700.

Of the cases that go to the AG's Office, half or 25 will have not expert cost. 10 cases will go to pretrial at 4 hours expert time each, the rate for trial related expert work is $200, this equates to $8,000. 15 cases will go to hearing at 12 hours to prep the expert and for the expert to testify at the hearing at $200 per hour, equates to $36,000.

AMENDED IN SENATE APRIL 22, 2013

AMENDED IN SENATE APRIL 9, 2013

SENATE BILL **No. 62**

Introduced by Senator Price

January 8, 2013

An act to amend Section 802.5 of the Business and Professions Code, relating to coroners.

LEGISLATIVE COUNSEL'S DIGEST

SB 62, as amended, Price. Coroners: reporting requirements: prescription drug use.

Existing law requires a coroner to make a report, as specified, when he or she receives information that indicates that a death may be the result of a physician and surgeon's, podiatrist's, or physician assistant's gross negligence or incompetence. Existing law requires the report to be followed, within 90 days, by copies of the coroner's report, autopsy protocol, and all other relevant information.

This bill would expand those provisions to require a coroner to make a report when he or she receives information that indicates *that a contributing factor in* a *cause of* death ~~may be the result of prescription drug use~~ *is related to the toxicity from a Schedule II, III, or IV drug,* and to require the coroner to additionally file the report with the Medical Board of California. The bill would also extend the time during which the coroner's report and other information may follow the report to as soon as possible once the coroner's final report of investigation is complete. By increasing the duties of county officers, this bill ~~creates~~ *would create* a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 802.5 of the Business and Professions Code is amended to read:

802.5. (a) When a coroner receives information that is based on findings that were reached by, or documented and approved by, a board-certified or California licensed pathologist indicating that a death may be the result of a physician and surgeon's, podiatrist's, or physician assistant's gross negligence or incompetence, a report shall be filed with the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board. The initial report shall include the name of the decedent, date and place of death, attending physicians, podiatrists, or physician assistants, and all other relevant information available. The initial report shall be followed, within 90 days or as soon as possible once the coroner's final report of investigation is complete, by copies of the coroner's report, autopsy protocol, and all other relevant information.

(b) A report required by this section shall be confidential. No coroner, physician and surgeon, or medical examiner, nor any authorized agent, shall be liable for damages in any civil action as a result of his or her acting in compliance with this section. No board-certified or California licensed pathologist, nor any authorized agent, shall be liable for damages in any civil action as a result of his or her providing information under subdivision (a) or (c).

(c) When a coroner receives information that is based on findings that were reached by, or documented and approved by, a board-certified or California licensed pathologist indicating that

a contributing factor in the cause of death is ~~determined to be the result of prescription drug use~~ *related to toxicity from a Schedule II, III, or IV drug*, a report shall be filed with the Medical Board of California. The initial report shall include, when known, the name of the decedent, date and place of death, attending physicians, podiatrists, or physician assistants, and all other relevant information, including, but not limited to, any information available to identify the prescription drugs, prescribing physicians, and dispensing pharmacy. The initial report shall be followed, within 90 days or as soon as possible once the coroner's final report of investigation is complete, by copies of the coroner's report, autopsy protocol, and all other relevant information.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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Agenda Item 8a - Enforcement Program

Bullet 2 - Use of CURES Data

Pages 9-40

Prescription Drug Monitoring Program (PDMP) Utilization by State

State	Is the PDMP Proactively Queried?	How is the PDMP information utilized?
Arizona	No	The PDMP is only queried as part of an investigation (by physician prescriber or patient).
Arizona – Osteo	No	The PDMP is only queried as part of an investigation.
Colorado	No	The PDMP can only be subpoenaed as part of an open investigation.
Delaware	Yes	The pharmacist on staff monitors the PDMP. The pharmacist runs reports periodically to pull out any heavy prescribers based on patient's controlled substance prescription history.
Idaho	Yes, the Board of Pharmacy does.	The Board of Pharmacy monitors the PDMP and identifies outliers and provides information to the Board of Medicine for review/investigation.
Indiana	No	The PDMP is only queried for physicians on probation that are prohibited from prescribing controlled substance.
Iowa	No	State licensing agencies (including the Board of Medicine) must subpoena the Iowa PDMP to gain access to very specific information, as detailed in the subpoena.
Kansas	No	The Board cannot proactively query the PDMP, it is prohibited by statute.
Maine	No	The Board is not allowed to query proactively.
Maryland	No	Similar to Kansas, the Board cannot proactively query the PDMP. The PDMP will not become operational until this Fall.
Mississippi	Yes	The Board can actively query the PDMP.
N. Carolina	No	By statute, the Board is only allowed to access the PDMP when/if there is an active investigation.
N. Dakota	No	Statute allows the pharmacy board to give PDMP information if the request is "relevant to an investigation of" a licensee.
Oklahoma	Yes	The information is provided by the Oklahoma Bureau of Narcotics, investigators and medical advisors query the data.
Oregon	No	The PDMP is only queried as part of an investigation.
S. Dakota	No	The PDMP is queried as needed, upon request from an investigator.
Texas	Yes	The Board once ran a report that identified the top prescribers of specific drugs and investigations were opened on the top 20 prescribers. The PDMP is also utilized when investigating complaints.
W. Virginia	No	The PDMP can only be queried as part of an investigation.
W. Virigina – (Board of Osteopathic Medicine)	No	The Board only has authority to query the PDMP if there is an open investigation. An authorized representative of the Board must register with each state PDMP as an authorized user.
Wyoming	No	Statute requires that the Board has an investigation or complaint pending before the PDMP can be queried.

The Medical Board queried all 50 states through the Administrator's in Medicine Exec Net on 5/15/13, only 20 responses were received.

The Medical Board and CURES

- How does CURES work?
- How does CCU and MBC investigators use CURES
- Case study

What is CURES?

Controlled Substance Utilization Review and Evaluation System

Administered by the Department of Justice

CURES History

Originally evolved from the California Triplicate Prescription Program created in 1940.

The California Triplicate Prescription Program was the oldest running multiple copy prescription program in the nation.

How does CURES work?

Collects Schedule II, III, and IV prescription information from pharmacies on a weekly basis via an electronic data transfer system that allows for analysis and retrieval of data.

Allows pre-registered practitioners, pharmacists, law enforcement and regulatory boards instantaneous web-based access to controlled substance history information 24-hours a day.

Accessibility to Licensing Boards

- **Board of Pharmacy**
- **Medical Board**
- **Dental Board**
- **Nursing Board**
- **Osteopathic Medical Board**
- **Veterinary Board**

Two Primary Functions of the CURES Program

1. Prevention & Intervention

2. Investigation & Enforcement

Patient Activity Report

- Printout which contains the prescribing and dispensing history contained in the CURES data system for Schedule II, III, & IV controlled substances to patients under the requesting medical provider's care.
- Only available to prescribers and pharmacists

CURES

California Department of Justice
P.O. Box 160447, Sacramento, CA 95816
Telephone: (916) 319-9062
Fax: (916) 319-9448

Patient Activity Report (PAR)

Please complete the following information by typing or printing in the required fields.

PHYSICIAN INFORMATION			
Physician DEA No.:		License No.:	
Physician Name (As it Appears on your DEA Certificate)			
Physician Address			
	City:	State:	Zip Code:
Telephone No.:		Fax No.:	

PATIENT INFORMATION			
Last Name		First Name	
AKA (Also Known As)		Maiden Name	
Patient Address			
	City:	State:	Zip Code:
Telephone No.:			
Social Security No.:		Date of Birth	

ADDITIONAL COMMENTS OR INFORMATION

AUTHORIZATION

By signing below, I certify that I am a licensed health care practitioner eligible to obtain controlled substance history dispensed to the patient in my care identified above, based on data contained in the Controlled Substance Utilization Review and Evaluation System (CURES). I understand that any request for, or release of a controlled substance history shall be made in accordance with Department of Justice guidelines, that the history shall be considered medical information subject to the provisions of the Confidentiality of Medical Information Act (Civil Code §§ 56 et seq.)

Please FAX your request to (916) 319-9448

Or mail to: California Department of Justice, P.O. Box 160447, Sacramento, CA 95816

Physician Signature _____ Date _____

For Department of Justice Use Only	Date Received	Date Completed	Initials
	Comments		

BNE 1176 (06/2003)

CURES Patient Activity Report

Department of Justice - Bureau of Narcotic Enforcement

Controlled Substance Utilization Review & Evaluation System

Patient Prescription History

Date: 05/19/2004
Time: 12:19PM

CONFIDENTIAL DOCUMENT

Patient Last Name: [redacted] **Number of Hits:** 34

Date Filled	First Name	Birth Date	Sex	Serial #	Drug Name	Form	Strength	QTY	Pharmacy Name	PHY #	Dr. Name	Dr.'s DEA #	RX #
09/05/2000		10/19/1940	M		OXYCONTIN	TER	10 MG	180					
09/28/2000			M		OXYCONTIN	TER	40 MG	30					
09/28/2000			M		OXYCONTIN	TER	20 MG	30					
10/19/2000			M		OXYCONTIN	TER	20 MG	40					
10/19/2000			M		OXYCONTIN	TER	40 MG	35					
11/16/2000			M		OXYCONTIN	TER	20 MG	45					
11/16/2000			M		OXYCONTIN	TER	40 MG	40					
06/14/2001			M		ROXICODONE	TAB	5 MG	720					
06/28/2001			M		ROXICODONE	TAB	5 MG	720					
07/05/2001			M		ROXICET	TAB	325 MG-5 MG	1440					
07/10/2001			M		ROXICODONE	TAB	5 MG	500					
07/16/2001			M		ROXICODONE	TAB	5 MG	940					
08/30/2001			M		METHADONE HCL	TAB	10 MG	540					
09/27/2001			M		METHADONE HCL	TAB	10 MG	540					
10/25/2001			M		METHADONE HCL	TAB	10 MG	540					
11/21/2001			M		METHADONE HCL	TAB	10 MG	540					
12/20/2001			M		METHADONE HCL	TAB	10 MG	600					
01/17/2002			M		METHADONE HCL	TAB	10 MG	600					
02/14/2002			M		METHADONE HCL	TAB	10 MG	600					
03/14/2002			M		METHADONE HCL	TAB	10 MG	600					
04/11/2002			M		METHADONE HCL	TAB	10 MG	600					
05/10/2002			M		METHADONE HCL	TAB	10 MG	600					
06/06/2002			M		METHADONE HCL	TAB	10 MG	600					
08/01/2002			M		METHADOSE	TAB	10 MG	600					

Disclaimer: **The Patient Activity Report is compiled from information maintained in the Department of Justice's Controlled Substance Utilization Review & Evaluation System. The CURES maintains Schedule II, III, IV prescription information that is received from California pharmacies and is therefore only as accurate as the information provided by the pharmacies.**

CURES Patient Activity Report

Benefits for the prescribers:

- Prescribers become aware of patients who may be drug-seeking
- Able to make more informed decisions on prescribing

Benefits for the patients:

- Patients who are drug-seeking will benefit from prescribers' intervention
- Patients who are not drug-seeking will benefit from prescribers' ability to feel more comfortable in prescribing medicines they need

CURES PDMP System

- Effective September 15, 2009 the CURES Prescription Drug Monitoring Program (PDMP) database became available online. Access is available to prescribers, pharmacists, law enforcement personnel.

- Once an application is received and approved, the requestor has real-time access to the database.

- To gain access to the PDMP database, register at https://pmp.doj.ca.gov/pmpreg/.

Case study (CCU):

- CCU receives a complainant from a Medical Doctor whose patient, M.C., revealed to him the subject physician prescribes whatever pt. wants with no examination or medical indication.

- Review of complaint history reveals previous disciplinary action for drug violations.

- CCU analyst orders CURES report which reveals 1,281 pages in a 3-year time period.

Case study (CCU):

- CCU analyst may submit CURES report and complaint documents to a medical expert for review or more likely, in this case, will send the case directly to the field for investigation.

- In less obvious cases (no priors, CURES report not as voluminous), the CCU reviewer would review the CURES to determine if there are any appearances of inappropriate prescribing.

Case study (field investigation)

Step 1: Investigator orders CURES for patient M.C.

- Patient M.C. has 16-pages of hydrocodone bitartrate prescriptions in 3-year period.
- In January of 2005, patient received 780 apap/hydrocodone pills
- In May of 2007, patient received 960 apap/hydrocodone pills
- Some pharmacy shopping
- Some doctor shopping

Case study (field investigation):

Step 2: Review entire CURES for physician for patterns

- Numerous other physicians prescribing same or similar medication
- Geographic location of pharmacy (pharmacy is far away from doctor's practice)
- Combination of medications (Vicodin and Soma)
- Quantity
- Family members receiving same medications

Case study (field investigation):

Step 3. Additional patient revealed

- Patient A.B. stands out on CURES report
- 52 pages of drugs prescribed by single physician to this patient
- Variations of hydrocodone filled on the same day (or within 1-2 days) at different pharmacies
- Pattern continues for three years (until subject is arrested/convicted/incarcerated)

Controlled Substance Utilization Review and Evaluation System

Prescriber Prescription History

AH1156795

[redacted]

Date Range: Between Nov 1, 2004 and Nov 30, 2007

Number of Prescriptions: 9,022

Patient Last Name	Patient First Name	Patient DOB	Date Filled	Drug Name	Drug Form	Strength	Quantity	PHY #	Pharmacy Name	RX Number
B[redacted]	ANGELA			BITARTRATE		MG				
		12/16/1965	11/12/2005	HYDROMET	SYR	1.5 MG/5 ML-5 MG/5 ML	360	PHY43040	PAVILIONS PHARMACY 2214	4066878
		12/16/1965	11/15/2005	APAP/ HYDROCODONE BITARTRATE	TAB	325 MG-10 MG	90	PHY46307	OLIVE AVENUE MEDICAL PHARMACY	0030307
		12/16/1965	11/17/2005	HOMATROPINE/ HYDROCODONE	SYR	1.5 MG/5 ML-5 MG/5 ML	360	PHY33068	CAL MED PHARMACY WEST	0499772
		12/16/1965	11/21/2005	APAP/ HYDROCODONE BITARTRATE	TAB	325 MG-10 MG	60	PHY19709	SAV MART DRUGS	0103779
		12/16/1965	11/22/2005	APAP/ HYDROCODONE BITARTRATE	TAB	325 MG-10 MG	90	PHY43382	SAV ON DRUGS NO 6547	0651379
		12/16/1965	11/22/2005	TUSSIONEX PENNKINETIC	SER	8 MG/5 ML-10 MG/5 ML	240	PHY43382	SAV ON DRUGS NO 6547	0651380

Disclaimer:
The Prescriber Prescription History Report is compiled from information maintained in the Department of Justice's Controlled Substance Utilization Review and Evaluation System (CURES). The CURES maintains Schedule II, Schedule III, and Schedule IV prescription information that is received from California Pharmacies and is therefore only as accurate as the information provided by the Pharmacies.

Last Update: 10/14/2010
Run Date: Oct 18, 2010 04:04

Controlled Substance Utilization Review and Evaluation System

Prescriber Prescription History

AH1156795

[redacted]VE

Date Range: Between Nov 1, 2004 and Nov 30, 2007

Number of Prescriptions: 9,022

Patient Last Name	Patient First Name	Patient DOB	Date Filled	Drug Name	Drug Form	Strength	Quantity	PHY #	Pharmacy Name	RX Number
[redacted]	ANGELA	12/16/1965	11/26/2005	HOMATROPINE/ HYDROCODONE	SYR	1.5 MG/5 ML-5 MG/5 ML	300	PHY39331	PX DRUG STORE	4533575
		12/16/1965	11/29/2005	APAP/ HYDROCODONE BITARTRATE	TAB	325 MG-10 MG	90	PHY46783	CVS PHARMACY NO 4789	0144137
		12/16/1965	12/01/2005	HOMATROPINE/ HYDROCODONE	SYR	1.5 MG/5 ML-5 MG/5 ML	240	PHY39331	PX DRUG STORE	4533643
		12/16/1965	12/13/2005	APAP/ HYDROCODONE BITARTRATE	TAB	325 MG-10 MG	90	PHY19709	SAV MART DRUGS	0105830
		12/16/1965	12/20/2005	APAP/ HYDROCODONE BITARTRATE	TAB	325 MG-10 MG	90	PHY46307	OLIVE AVENUE MEDICAL PHARMACY	0031051
		12/16/1965	12/20/2005	HYDROMET	SYR	1.5 MG/5 ML-5 MG/5 ML	240	PHY46307	OLIVE AVENUE MEDICAL PHARMACY	0031049
		12/16/1965	12/27/2005	APAP/	TAB	325	120	PHY43382	SAV ON DRUGS NO	0654901

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Controlled Substance Utilization Review and Evaluation System

Prescriber Prescription History

AH1156795

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Patient Last Name	Patient First Name	Patient DOB	Date Filled	Drug Name	Drug Form	Strength	Quantity	PHY #	Pharmacy Name	RX Number
B[redacted]	ANGELA			HYDROCODONE BITARTRATE		MG-10 MG			6547	
		12/16/1965	12/27/2005	HOMATROPINE/ HYDROCODONE	SYR	1.5 MG/5 ML-5 MG/5 ML	180	PHY43382	SAV ON DRUGS NO 6547	0654907
		12/16/1965	01/06/2006	HOMATROPINE/ HYDROCODONE	SYR	1.5 MG/5 ML-5 MG/5 ML	240	PHY39331	PX DRUG STORE	4534131
		12/16/1965	01/09/2006	HYDROMET	SYR	1.5 MG/5 ML-5 MG/5 ML	240	PHY19709	SAV MART DRUGS	0108097
		12/16/1965	01/16/2006	HOMATROPINE/ HYDROCODONE	SYR	1.5 MG/5 ML-5 MG/5 ML	240	PHY46783	CVS PHARMACY NO 4789	0151115
		12/16/1965	01/19/2006	HYDROMET	SYR	1.5 MG/5 ML-5 MG/5 ML	180	PHY46307	OLIVE AVENUE MEDICAL PHARMACY	0031711
		12/16/1965	01/23/2006	HYDROMET	SYR	1.5 MG/5 ML-5	240	PHY43512	WALGREENS PHARMACY NO	0378355

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Controlled Substance Utilization Review and Evaluation System

Prescriber Prescription History

AH1156795

[redacted]

Date Range: Between Nov 1, 2004 and Nov 30, 2007

Number of Prescriptions: 9,022

Patient Last Name	Patient First Name	Patient DOB	Date Filled	Drug Name	Drug Form	Strength	Quantity	PHY #	Pharmacy Name	RX Number
B[redacted]	ANGELA					MG/5 ML			04474	
		12/16/1965	01/24/2006	APAP/ HYDROCODONE BITARTRATE	TAB	325 MG-10 MG	90	PHY19709	SAV MART DRUGS	0109531
		12/16/1965	01/27/2006	APAP/ HYDROCODONE BITARTRATE	TAB	325 MG-10 MG	30	PHY46307	OLIVE AVENUE MEDICAL PHARMACY	0031051
		12/16/1965	01/27/2006	HYDROMET	SYR	1.5 MG/5 ML-5 MG/5 ML	240	PHY40912	JAY SCOTT DRUGS	0159201
		12/16/1965	02/03/2006	HOMATROPINE/ HYDROCODONE	SYR	1.5 MG/5 ML-5 MG/5 ML	240	PHY39331	PX DRUG STORE	4534539
		12/16/1965	02/06/2006	HYDROMET	SYR	1.5 MG/5 ML-5 MG/5 ML	300	PHY43040	PAVILIONS PHARMACY 2214	4067974
		12/16/1965	02/09/2006	HYDROMET	SYR	1.5 MG/5 ML-5 MG/5 ML	240	PHY19709	SAV MART DRUGS	0111056

Disclaimer:
The Prescriber Prescription History Report is compiled from information maintained in the Department of Justice's Controlled Substance Utilization Review and Evaluation System (CURES). The CURES maintains Schedule II, Schedule III, and Schedule IV prescription information that is received from California Pharmacies and is therefore only as accurate as the information provided by the Pharmacies.

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Patient Last Name	Patient First Name	Patient DOB	Date Filled	Drug Name	Drug Form	Strength	Quantity	PHY #	Pharmacy Name	RX Number
B[redacted]	ANGELA	12/16/1965	02/13/2006	HYDROMET	SYR	1.5 MG/5 ML-5 MG/5 ML	240	PHY40912	JAY SCOTT DRUGS	0159923
		12/16/1965	02/20/2006	HYDROMET	SYR	1.5 MG/5 ML-5 MG/5 ML	240	PHY43512	WALGREENS PHARMACY NO 04474	0382389
		12/16/1965	02/23/2006	HOMATROPINE/ HYDROCODONE	SYR	1.5 MG/5 ML-5 MG/5 ML	240	PHY39331	PX DRUG STORE	4534781
		12/16/1965	03/02/2006	HYDROMET	SYR	1.5 MG/5 ML-5 MG/5 ML	240	PHY19709	SAV MART DRUGS	0112943
		12/16/1965	03/04/2006	APAP/ HYDROCODONE BITARTRATE	TAB	325 MG-10 MG	90	PHY43382	SAV ON DRUGS NO 6547	0661841
		12/16/1965	03/13/2006	APAP/ HYDROCODONE BITARTRATE	TAB	325 MG-10 MG	60	PHY19709	SAV MART DRUGS	0113922
		12/16/1965	03/13/2006	HYDROMET	SYR	1.5 MG/5	240	PHY19709	SAV MART DRUGS	0113923

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Last Update: 10/14/2010
Run Date: Oct 18, 2010 04:04

Controlled Substance Utilization Review and Evaluation System

Prescriber Prescription History

AH1156795

[redacted]

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Number of Prescriptions: 9,022

Patient Last Name	Patient First Name	Patient DOB	Date Filled	Drug Name	Drug Form	Strength	Quantity	PHY #	Pharmacy Name	RX Number
[redacted]	ANGELA					ML-5 MG/5 ML				
		12/16/1965	03/18/2006	HOMATROPINE/ HYDROCODONE	SYR	1.5 MG/5 ML-5 MG/5 ML	240	PHY46783	CVS PHARMACY NO 4789	0161496
		12/16/1965	03/27/2006	HYDROMET	SYR	1.5 MG/5 ML-5 MG/5 ML	240	PHY46307	OLIVE AVENUE MEDICAL PHARMACY	0033158
		12/16/1965	03/29/2006	HOMATROPINE/ HYDROCODONE	SYR	1.5 MG/5 ML-5 MG/5 ML	240	PHY39331	PX DRUG STORE	4535228
		12/16/1965	03/30/2006	APAP/ HYDROCODONE BITARTRATE	TAB	325 MG-10 MG	60	PHY43382	SAV ON DRUGS NO 6547	0664388
		12/16/1965	03/30/2006	HOMATROPINE/ HYDROCODONE	SYR	1.5 MG/5 ML-5 MG/5 ML	180	PHY43382	SAV ON DRUGS NO 6547	0664385
		12/16/1965	04/06/2006	HYDROMET	SYR	1.5 MG/5 ML-5	240	PHY44963	LA CRESCENTA PHARMACY INC	4118327

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Controlled Substance Utilization Review and Evaluation System

Prescriber Prescription History

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Date Range: Between Nov 1, 2004 and Nov 30, 2007

Number of Prescriptions: 9,022

Patient Last Name	Patient First Name	Patient DOB	Date Filled	Drug Name	Drug Form	Strength	Quantity	PHY #	Pharmacy Name	RX Number
B[redacted]	ANGELA					MG/5 ML				
		12/16/1965	04/08/2006	HOMATROPINE/ HYDROCODONE	SYR	1.5 MG/5 ML-5 MG/5 ML	240	PHY36376	SAV ON DRUGS NO 9717	1608327
		12/16/1965	04/11/2006	HOMATROPINE/ HYDROCODONE	SYR	1.5 MG/5 ML-5 MG/5 ML	240	PHY33068	CAL MED PHARMACY WEST	0507333
		12/16/1965	04/18/2006	APAP/ HYDROCODONE BITARTRATE	TAB	325 MG-10 MG	30	PHY43512	WALGREENS PHARMACY NO 04474	0390136
		12/16/1965	04/18/2006	HYDROMET	SYR	1.5 MG/5 ML-5 MG/5 ML	240	PHY43512	WALGREENS PHARMACY NO 04474	0390135
		12/16/1965	04/21/2006	HYDROMET	SYR	1.5 MG/5 ML-5 MG/5 ML	360	PHY19709	SAV MART DRUGS	0117746
		12/16/1965	04/24/2006	APAP/ HYDROCODONE BITARTRATE	TAB	325 MG-10 MG	90	PHY43382	SAV ON DRUGS NO 6547	0666623

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The Prescriber Prescription History Report is compiled from information maintained in the Department of Justice's Controlled Substance Utilization Review and Evaluation System (CURES). The CURES maintains Schedule II, Schedule III, and Schedule IV prescription information that is received from California Pharmacies and is therefore only as accurate as the information provided by the Pharmacies.

Potential investigative options:

- Surveillance
- Undercover Operation
- Search Warrant
- Subpoena duces tecum

DANGER

- In preparing a declaration for a subpoena duces tecum, the CURES report cannot be relied upon on its own as the basis for demonstrating the state's burden of "good cause."

- Investigator must procure all of the individual prescriptions to ensure the CURES report is accurate and that we have the "best" evidence, which is the original script.

- Hugely time consuming process.

Record Review

- Medical records typically tell the story between the legitimate pain patient and the indiscriminate prescriber

- Basic question: have the pain management guidelines been met?

Pain Management Guidelines

- MBC investigators always mindful of distinguishing between physicians treating legitimate pain patients and physicians who are peddling drugs.

- Pain management guidelines and sensitivity toward legitimate pain management practices

Subject Interview

Expert Review

- No Departure
- Simple Departure
- Extreme Departure
- Excessive Prescribing
- Inadequate record keeping
- Prescribing without legitimate medical purpose
- Prescribing without appropriate prior exam
- Violating drug statutes

Staff Recommendation: ***The MBC should advise the Committee whether CURES is currently working for its investigatory and regulatory purposes. Does MBC query CURES as a tool in its investigations? Should it do so? MBC should provide an update on its usage by the Board, and how it can be improved. Does the MBC recommend that consideration should be given to using licensing fees of various health related boards to adequately funding CURES in the future and the these licensing boards have primary responsibility for any actions to be taken against its licensees?***

MBC Response (April 2013):

The CURES Program is currently housed in the Department of Justice (DOJ) and is a state database of dispensed prescription drugs, some of which have a high potential for misuse and abuse. CURES provides for electronic transmission of specified prescription data to DOJ. In September 2009, DOJ launched the CURES Prescription Drug Monitoring Program (PDMP) system allowing pre-registered users, including licensed health care prescribers eligible to prescribe controlled substances, pharmacists authorized to dispense controlled substances, law enforcement, and regulatory boards, including the MBC, to access patient controlled substance history information through a secure Web site.

Since the inception of CURES, the MBC has utilized the reports available through the CURES data base as a valuable tool throughout the investigative process. As part of the intake or triage review of new complaints received in the MBC's Central Complaint Unit, when allegations of excessive or inappropriate prescribing are made, the prescriber history report is generated from CURES. The report provides the MBC with information on the quantity of prescriptions written by the physician, which can then be referred to a medical expert for review. The medical expert reviews the report to determine whether the quantity of medication being prescribed to a patient or patients is either appropriate or excessive and a field investigation can be initiated as a result. The medical expert also helps focus on specific patients who may be receiving a concerning amount or combination of controlled substances, as these patients generally do not complain to the MBC about the physician who is prescribing to them. The MBC's Central Complaint Unit also utilizes the CURES data base to evaluate complaints related to care being provided to specific patients; particularly when the complaint is made by a patient's family and if the patient refuses to provide an authorization for release of medical records. A patient activity report would be generated to identify whether the patient is receiving controlled substances from more than one prescriber or is receiving an excessive amount of controlled substances from a single provider. If deemed to be an issue, the MBC would then need to subpoena the medical records since an authorization for release could not be obtained from the patient.

When a case alleging inappropriate prescribing is sent from the MBC's Central Complaint Unit to the field, investigators will utilize the CURES reports for a variety of reasons. The investigator typically will initially run a CURES report that lists all patients to whom a physician is prescribing. The investigator will look for patients who reside far away from the physician's office or the pharmacy where prescriptions are being filled; patients who are using a variety of pharmacies to "cash" the prescriptions (this is done to avoid detection by pharmacy personnel); numerous people with the same surname receiving scheduled drugs from the same physician; and the combination of drugs being prescribed and the age of the patient. Once a sampling of patients who fit an aberrant prescribing pattern is identified, the

investigator will then run the individual patient CURES report to learn of all the prescribers who are writing scheduled drugs to the patient. Investigators will then begin acquiring the information upon which a determination will be made whether or not the prescribing is within the standard of care.

Investigators also use CURES reports for cases alleging self-prescribing or physician impairment. In these instances, a CURES report is run for the individual physician to determine if he or she is receiving a concerning amount of prescriptions.

It is important to note that the CURES report does not stand alone as an investigative tool. It is a critical "roadmap" that leads the investigator to the evidence that ultimately will be utilized for prosecution, should that become necessary.

The MBC uses the CURES database to monitor physicians who have been placed on probation following disciplinary action for excessive or inappropriate prescribing. A common condition of probation ordered for inappropriate prescribing violations is to limit or restrict the controlled substances that a physician can prescribe. For example, a physician may be ordered to not prescribe Schedule II controlled substances during the period of probation. The MBC's Probation Unit will generate a report from CURES showing the physician's prescribing history in order to ensure that the doctor is complying with their probation condition. The Probation Unit can also order a patient activity report to ensure that physicians who are required to abstain from the use of controlled substances are not receiving or writing prescriptions in violation of this condition.

The MBC believes CURES is a very important enforcement tool, however the system needs to be fully funded and upgraded to be more real time and able to handle inquiries from all prescribers in California. The MBC has been very supportive in the past of any effort to get CURES more fully funded in order for the PDMP to be at optimum operating capacity.

As stated above, the MBC has supported in the past and recommends that legislation be considered to provide an adequate funding source for CURES. The funding should come from prescribers/dispensers (including physicians, dentists, pharmacists, veterinarians, nurse practitioners, physician assistants, osteopathic physicians, optometrists, and podiatrists), pharmaceutical companies, and the public.

ISSUE #23: Exclude medical malpractice reports from requirements of a medical

Background: The MBC has raised the following as a new issue in its Sunset Report. BPC § 2220.08 requires that before a quality of care complaint is referred for investigation it must be reviewed by a medical expert with the expertise necessary to evaluate the specific standard of care issue raised in the complaint. While, the rationale for the up-front specialty review makes sense, it may not make sense in the case of Medical Malpractice cases that have been reported to the Board.

The Board believes that medical malpractice cases reported pursuant to section 801.01 after the civil action has been concluded would be appropriate to exclude from the upfront specialty review as well. Unlike complaints filed by the public, medical malpractice cases

Agenda Item 8a - Enforcement Program

Bullet 3 - Cost/Ramifications of Senate Bill 304 (Price)
Proposal to Transfer all Investigative Staff to DOJ

Pages 41-51

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: May 23, 2013
ATTENTION: Board Members
SUBJECT: Cost/Ramifications of Senate Bill 304, Specifically the Proposal to Transfer all Investigative Staff to the Department of Justice
STAFF CONTACT: Kimberly Kirchmeyer, Deputy Director

RECOMMENDED ACTION:
This information is provided to the Members for information and discussion.

BACKGROUND AND ANALYSIS:
Senate Bill 304 (Price) proposes the transfer of all investigative staff within the Medical Board of California (Board) to the Department of Justice (DOJ). The language states,

> "(b) On January 1, 2014, all persons employed by the Medical Board of California who are performing investigations and those person's staff shall be transferred to, and shall become employees of, the Department of Justice. The status, position, and rights of those persons shall, upon transfer, be the same as employees of the Department of Justice holding similar positions, and for those persons transferred who are performing investigations shall include the status of peace officer provided for in Section 830.1 of the Penal Code. Nothing in this section affects or diminishes the duty of the Medical Board of California to preserve the confidentiality of records as otherwise required by law. On and after January 1, 2014, any reference in this code to an investigation conducted by the Medical Board of California shall be deemed to refer to an investigation conducted by employees of the Department of Justice."

Costs
The Board has completed a fiscal analysis on this portion of the bill. In reviewing the bill, the fiscal portion of the transfer of these positions includes the fact that the Investigators at the DOJ are classified as Special Agents and have a higher salary. As such, once the Investigators are transferred, they should be moved into the same classifications as DOJ personnel. This results in an increase of $1.294 million per year (this only includes the increase in salaries, it does not include the increase in benefits). Please see the attached fiscal sheet for specifics **(Attachment 1)**. Additionally, please see the attached fund condition indicating the impact of these positions moving to DOJ **(Attachment 2)**. This fund condition also includes anticipated future costs for the Board. A second fund condition is also provided with a potential fiscal year 12/13 $2 million reversion, which is anticipated for the Board **(Attachment 3)**.

Ramifications
Certain:

- The Investigators, Supervising Investigators I/II, Medical Consultants, Office Staff (including the Expert Reviewer Program staff), Deputy Chief, and Chief from the Board would all be transferred to the DOJ. The attached organization chart indicates the staff that would be moving to DOJ **(Attachment 4)**.
    - The funding for these positions would be removed from the Board's salary and wages and moved to the Attorney General line item on the Board's budget as an operating expense.

    - The operating expenses in the Board's budget associated with the current investigator positions would be reduced for all overhead costs, including equipment, vehicle maintenance, rent, travel, training, etc., and would be moved to the Attorney General line item in the Board's budget.
    - The Attorney General would determine billing methodology and bill the Board an hourly rate for the investigative services – currently the Board charges/reimbursed $149/hour for investigative services for physician and surgeon cases.
- The Investigative staff in the Operation of Safe Medicine (OSM) will not be transferred to the DOJ due to the fact they do criminal investigations.
- All other staff in the enforcement unit would remain at the Board (Central Complaint Unit, Discipline Coordination Unit, Probation Unit, Non-Sworn Special Investigative Unit, Central File Unit).
- The Board would need to have an individual designated to review investigation reports to ensure the appropriate action was taken, i.e. closure or filing.
- The Investigators would be provided increased authority under their status in Penal Code section 830.1, which will allow them to work more efficiently in their cases, specifically prescribing practices and sexual misconduct cases.

Uncertain:

- The Office of Standards and Training Unit (OST) staff would be needed at the DOJ; however, a few of the staff may also need to remain at the Board in order to assist with hiring and training the OSM staff and the non-sworn special Investigators.
- It is uncertain whether the boards who utilize the Medical Board's Investigators to perform investigations (i.e. Board of Podiatric Medicine, Osteopathic Medical Board of California, Physician Assistant Board, and Board of Psychology) would continue to use the transferred investigators or would use the Department of Consumer Affairs' Division of Investigation (DOI). Note: Board of Podiatric Medicine utilizes the vertical enforcement model.
- It is uncertain whether the DOJ would pay for the expert opinion reviews and the Board reimburse the DOJ or whether the experts would be paid by the Board.
- Once the Board hits the financial threshold for the hours that could be paid to the Attorney General's office from that line item, the Board would have to <u>halt</u> investigations until July 1 of the next fiscal year. (This sometimes happens with boards who have investigations performed by the Board or DOI.)
- What other positions the DOJ may determine are required to implement this new responsibility.
- If this could actually happen by January 1, 2014 as that is only three months after the bill is signed.

<u>Additional Information</u>

The Board polled other states, via the Administrators in Medicine, to determine who employs Investigators at other state boards. The attached matrix **(Attachment 5)** indicates the findings from the

other boards that responded. As identified in the matrix, nine of the twelve boards that responded use their own in-house Investigators to conduct investigations. One of the boards that responded uses Investigators from the Attorney General's Office.

In addition, the Federation of State Medical Boards provided a matrix of state board activities and authority (**Attachment 6**). Under the heading "Disciplinary Investigations" it shows 32 states with authority over investigations (note that some states did not respond).

At the April 26, 2013 Board Meeting, a list of initial pros and cons was provided to the Board Members. A copy of that document is also attached **(Attachment 7)**.

Fiscal Impact of Moving MBC Investigators to DOJ
On an Annual Basis

MBC	DOJ
Investigators - $74,328	Special Agent – $88,092
Difference - $13,764 72 investigators = $991,008	
Sup. I Investigator – $81,624	Special Agent Sup - $96,828
Difference – $15,204 14 Sup. I Investigators - $212,856	
Sup. II Investigator - $92,148	Special Agent In Charge - $107,268
Difference - $15,120 4 Sup. II Investigators - $60,480	

TOTAL - $1,264,334 + $30,000 for Chief/Deputy Chief = $1,294,344

NOTE: This analysis does not include the Operation Safe Medicine Unit and its staff (4 Investigators and 1 Supervising Investigator I). This analysis does not include the increase in benefits.

0758 - Medical Board
Analysis of Fund Condition

(Dollars in Thousands)

FY 2012-13 Governor's Budget	ACTUAL 2011-12	CURRENT YEAR 2012-13	BY 2013-14	BY+1 2014-15	BY+2 2015-16
BEGINNING BALANCE	$ 30,246	$ 24,613	$ 22,113	$ 16,845	$ 6,134
Prior Year Adjustment	$ 752	$ -	$ -	$ -	$ -
Adjusted Beginning Balance	$ 30,998	$ 24,613	$ 22,113	$ 16,845	$ 6,134
REVENUES AND TRANSFERS					
Revenues:					
125600 Other regulatory fees	$ 355	$ 287	$ 288	$ 288	$ 288
125700 Other regulatory licenses and permits	$ 5,946	$ 5,646	$ 5,647	$ 5,647	$ 5,647
125800 Renewal fees	$ 46,269	$ 45,445	$ 45,481	$ 45,481	$ 45,481
125900 Delinquent fees	$ 120	$ 98	$ 98	$ 98	$ 98
142500 Miscellaneous services to the public	$ 31	$ 30	$ 30	$ 30	$ 30
150300 Income from surplus money investments	$ 115	$ 88	$ 60	$ 42	$ 69
160400 Sale of fixed assets	$ 3	$ -	$ -	$ -	$ -
161000 Escheat of unclaimed checks and warrants	$ 16	$ -	$ -	$ -	$ -
161400 Miscellaneous revenues	$ 2	$ 19	$ 19	$ 19	$ 19
164300 Penalty assessments - Probation Monitoring		$ 900	$ 900	$ 900	$ 900
Totals, Revenues	$ 52,857	$ 52,513	$ 52,523	$ 52,505	$ 52,532
Transfers:					
GENERAL FUND LOAN*	$ (9,000)				
TOTALS, REVENUES AND TRANSFERS	$ 43,857	$ 52,513	$ 52,523	$ 52,505	$ 52,532
TOTAL RESOURCES	$ 74,855	$ 77,126	$ 74,636	$ 69,350	$ 58,666
EXPENDITURES					
Disbursements:					
0840 State Controller (State Operations)	$ 58	$ 67		$ -	$ -
8880 FSCU (State Operations)	$ 2	$ 302	$ 259		
FISCAL	$ 126	$			
1110 Program Expenditures (State Operations)	$ 50,056	$ 54,644 **	$ 55,673	$ 57,993	$ 57,980
2013-2014 Proposed BCP					
BreEZe Costs			$ 1,183		
Anticipated Future Costs					
CURES funding			$ 676	$ 790	
Increase in Expert pay				$ 476	$ 476
Antcipated BreEZe Cost				$ 1,300	$ 1,300
Movement of Investigators to DOJ				$ 1,294	$ 1,294
Northern OSM				$ 697	$ 568
Enforcement Enhancements - to DOJ***				$ 454	$ 388
Enforcement Enhancements - at MBC				$ 212	$ 187
Totals, Disbursements	$ 50,242	$ 55,013	$ 57,791	$ 63,216	$ 62,193
FUND BALANCE					
Reserve for economic uncertainties	$ 24,613	$ 22,113	$ 16,845	$ 6,134	$ (3,527)
Months in Reserve	5.4	4.6	3.2	1.2	-0.7

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR 2011-12 AND BEYOND.

B. INTEREST ON FUND ESTIMATED AT .68% in FY 10/11 and beyond.

* This $9 million is part of the $15 million total loaned to the General Fund by the Board. $6 million was loaned to the General Fund in FY 08/09. These loans will be repaid when the fund is nearing its minimum mandated level.

** This excludes the $1.278 million authorized for the BreEZe system as the BreEZe system was not implemented as projected in this fiscal year.

*** The Board will be putting forward a proposal for 2 additional investigators and 2 additional AGPAs to assist with the expert program. All of these individuals would transfer to DOJ.

5/22/2013

0758 - Medical Board
Analysis of Fund Condition

with proposed $2 million reversion

(Dollars in Thousands)

FY 2012-13 Governor's Budget	ACTUAL 2011-12	CURRENT YEAR 2012-13	BY 2013-14	BY+1 2014-15	BY+2 2015-16
BEGINNING BALANCE	$ 30,246	$ 24,613	$ 24,113	$ 18,845	$ 8,134
Prior Year Adjustment	$ 752	$ -	$ -	$ -	$ -
Adjusted Beginning Balance	$ 30,998	$ 24,613	$ 24,113	$ 18,845	$ 8,134
REVENUES AND TRANSFERS					
Revenues:					
125600 Other regulatory fees	$ 355	$ 287	$ 288	$ 288	$ 288
125700 Other regulatory licenses and permits	$ 5,946	$ 5,646	$ 5,647	$ 5,647	$ 5,647
125800 Renewal fees	$ 46,269	$ 45,445	$ 45,481	$ 45,481	$ 45,481
125900 Delinquent fees	$ 120	$ 98	$ 98	$ 98	$ 98
142500 Miscellaneous services to the public	$ 31	$ 30	$ 30	$ 30	$ 30
150300 Income from surplus money investments	$ 115	$ 88	$ 60	$ 42	$ 69
160400 Sale of fixed assets	$ 3	$ -	$ -	$ -	$ -
161000 Escheat of unclaimed checks and warrants	$ 16	$ -	$ -	$ -	$ -
161400 Miscellaneous revenues	$ 2	$ 19	$ 19	$ 19	$ 19
164300 Penalty assessments - Probation Monitoring		$ 900	$ 900	$ 900	$ 900
Totals, Revenues	$ 52,857	$ 52,513	$ 52,523	$ 52,505	$ 52,532
Transfers:					
GENERAL FUND LOAN*	$ (9,000)				
TOTALS, REVENUES AND TRANSFERS	$ 43,857	$ 52,513	$ 52,523	$ 52,505	$ 52,532
TOTAL RESOURCES	$ 74,855	$ 77,126	$ 76,636	$ 71,350	$ 60,666
EXPENDITURES					
Disbursements:					
0840 State Controller (State Operations)	$ 58	$ 67		$ -	$ -
8880 FSCU (State Operations)	$ 2	$ 302	$ 259		
FISCAL	$ 126	$			
1110 Program Expenditures (State Operations)	$ 50,056	$ 54,644 **	$ 55,673	$ 57,993	$ 57,980
		$ (2,000)			
2013-2014 Proposed BCP					
BreEZe Costs			$ 1,183		
Anticipated Future Costs					
CURES funding			$ 676	$ 790	
Increase in Expert pay				$ 476	$ 476
Antcipated BreEZe Cost				$ 1,300	$ 1,300
Movement of Investigators to DOJ (SB 304)				$ 1,294	$ 1,294
Northern OSM				$ 697	$ 568
Enforcement Enhancements - to DOJ***				$ 454	$ 388
Enforcement Enhancements - at MBC				$ 212	$ 187
Totals, Disbursements	$ 50,242	$ 53,013	$ 57,791	$ 63,216	$ 62,193
FUND BALANCE					
Reserve for economic uncertainties	$ 24,613	$ 24,113	$ 18,845	$ 8,134	$ (1,527)
Months in Reserve	5.6	5.0	3.6	1.6	-0.3

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR 2011-12 AND BEYOND.

B. INTEREST ON FUND ESTIMATED AT .68% in FY 10/11 and beyond.

* This $9 million is part of the $15 million total loaned to the General Fund by the Board. $6 million was loaned to the General Fund in FY 08/09. These loans will be repaid when the fund is nearing its minimum mandated level.

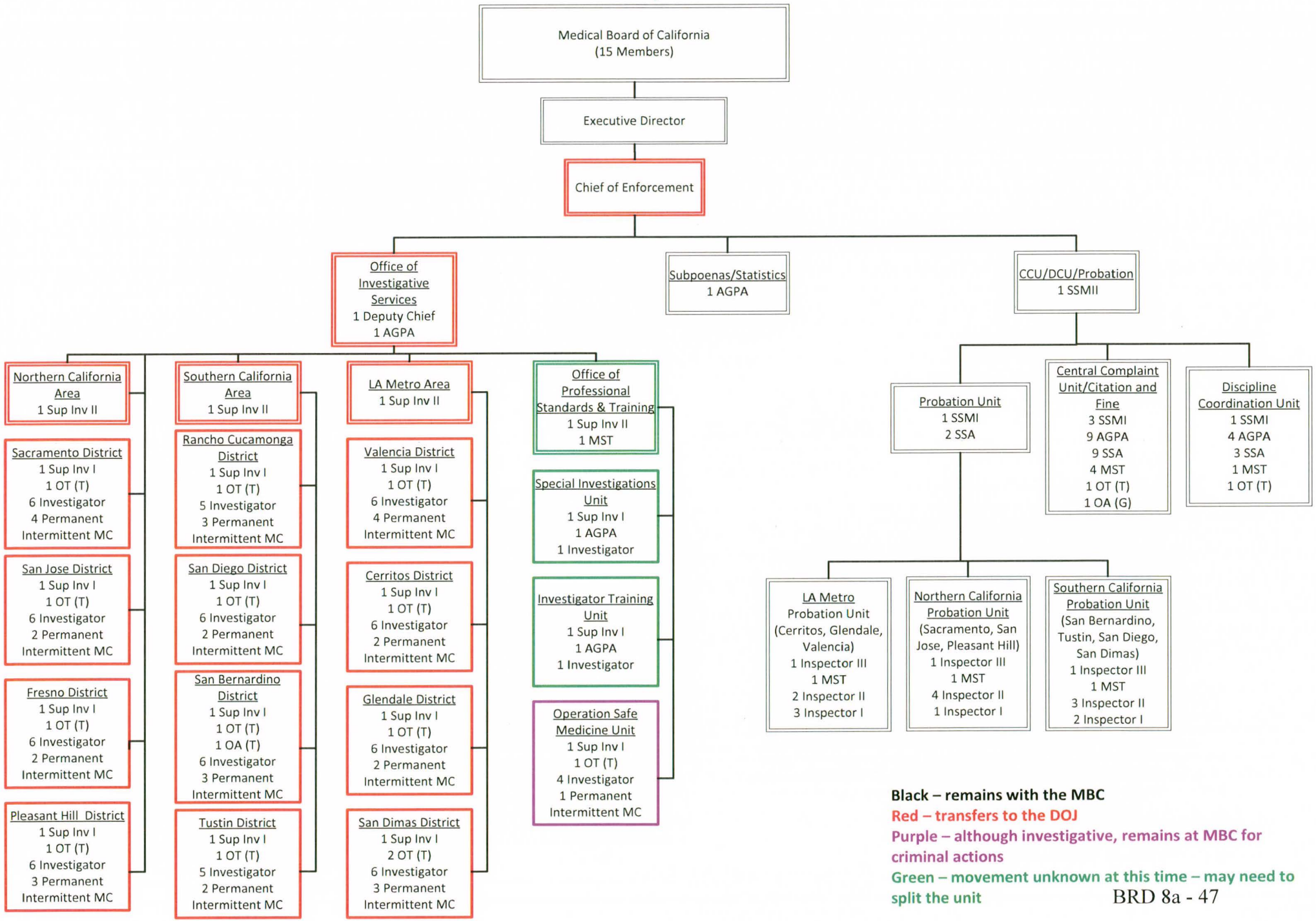
** This excludes the $1.278 million authorized for the BreEZe system as the BreEZe system was not implemented as projected in this fiscal year.

*** The Board will be putting forward a proposal for 2 additional investigators and 2 additional AGPAs to assist with the expert program. All of these individuals would transfer to DOJ should SB 304 pass.

5/22/2013

Medical Board of California
Enforcement Program
FY 2012/2013

Attachment 4



Black – remains with the MBC

Red – transfers to the DOJ

Purple – although investigative, remains at MBC for criminal actions

Green – movement unknown at this time – may need to split the unit

Investigator Information by State

State	Are Investigators Employed by the Board?	If Not, What Agency Handles Investigations?
Arizona	Yes	The Board has 7 full time investigators who gather medical records for the clinical consultants and conduct the professional conduct investigations. The Board conducts approximately 1200 investigations per year.
Delaware	No	The Division has 12 investigators for all 53 regulated professions. The Medical Board has access to all investigators, but there are usually 3-4 dedicated investigators to Medical Board cases only.
Idaho	Yes	The Board employs 3 investigators - 1 physician assistant and 2 registered nurses.
Indiana	No	All investigators are housed at the Office of the Attorney General.
Kansas	Yes	The Board has its own investigators in-house. The Board believes it is critical to have in-house investigators so that they are dedicated to the priorities of the Medical Board and so that they have subject matter knowledge, training, experience, and expertise. The investigators know the statutes enforced and what to look for in an investigation.
Maryland	Yes	The Board has 10 in-house investigators.
Mississippi	Yes	The Board has 9 in-house investigative staff.
N. Carolina	Yes	The Board has its own investigators, most of whom are retired State Bureau of Investigations agents.
N. Dakota	No	The Board utilizes investigators who are independent contractors, not affiliated with any state agency.
Oklahoma	Yes	The Board has a total of 5.5 investigator positions.
Oregon	Yes	All investigators are in-house.
S. Dakota	Yes	The Board has 1 in-house investigator and 2 additional investigator staff able to work cases. Also 1 staff legal counsel from the AG's office (part-time) and 1 Board Member is used on each case to make a recommendation to the Board for a final action (that Board Member does not vote or deliberate on their own case).
Texas	Yes	All investigators are in-house.
W. Virginia	Yes	There is 1 Board investigator on staff and the Board very infrequently contracts with a third party investigator.
Wyoming	Yes	The Board has an in-house investigator who is a paralegal and provides support to the prosecuting attorney.

The Medical Board queried all 50 states through the Administrator's in Medicine Exec Net on 5/15/13, only 15 responses were received.

	Activities within the Authority or Responsibility of the Board									
	Adoption of rules, regulations	Administration or selection of Licensing Examination	Issuance of licenses, permits, certificates	Approval for other authority's issuance of licenses, permits, certificates	Evaluation of applicant's education	Setting of fees	Disciplinary investigations	Disciplinary decision-making	Functions performed in an advisory capacity only	Authority to develop or adopt model policies, guidelines
AL										
AK	X	X	X	X	X	X	X	X	--	X
AZ-M	X	--	X	--	X	X	X	X	--	X
AZ-O										
AR										
CA-M	X	--	X	X	X	X	X	X	--	X
CA-O										
CO	X	X	X	X	X	--	X	X	--	X
CT	--	--	-	--	X	--	--	X	X	--
DE	X	--	X	X	X	--	--	X	X	X
DC										
FL-M	X	--	X	X	X	X	--	X	--	X
FL-O	X	--	X	X	X	X	--	X	--	X
GA	X	--	X	--	X	X	X	X	--	X
GU										
HI	X	--	X	--	--	--	--	X	--	--
ID	X	--	X	X	X	X	X	X	--	X
IL	--	--	-	--	X	--	--	--	X	--
IN	X	--	X	X	X	X	--	X	--	X
IA	X	--	X	--	X	X	X	X	--	X
KS	X	X	X	X	X	X	X	X	--	X
KY	X	X	X	X	X	X	X	X	--	X
LA	X	X	X	--	X	--	X	X	--	X
ME-M	X	X	X	X	X	X	X	X	--	X
ME-O										
MD	X	--	X	--	X	X	X	X	--	X
MA	X	--	X	--	X	X	X	X	X	X
MI-M	X	--	X	--	--	--	--	X	X	--
MI-O	X	--	X	--	--	--	--	X	X	--
MN										
MS	X	X	X	X	X	X	X	X	--	X
MO	X	X	X	--	X	X	X	X	--	X
MP	X	X	X	X	X	X	X	X	--	X
MT	X	--	X	--	X	X	X	X	--	X
NE	X	--	--	--	X	X	--	--	X	X

	Activities within the Authority or Responsibility of the Board									
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NV-M	X	--	X	--	X	--	X	X	--	X
NV-O	X	X	X	X	X	X	X	X	X	X
NH	X	--	X	--	X	X	X	X	--	X
NJ										
NM-M										
NM-O										
NY										
NC	X	--	X	X	X	X --	X	X	--	X
ND	X	--	X	--	X	X	X	X	--	X
OH	X	--	X	--	X	--	X	X	--	X
OK-M	X	--	X	X	X	X	--	X	--	X
OK-O	X	--	X	--	X	X	--	X	--	X
OR	X	X	X	--	X	X	X	X	--	X
PA-M	X	--	X	--	X	X	--	X	--	X
PA-O	X	--	X	--	X	X	--	X	--	X
PR	X	X	X	X	X	X	X	X	--	X
RI										
SC										
SD										
TN-M	X	X	X	X	X	X	X	X	X	X
TN-O	X	X	X	X	X	X	X	X	X	X
TX	X	X	X	--	X	X	X	X	--	X
UT-M	X	--	--	--	X	--	--	--	X	X
UT-O	X	--	--	--	X	--	--	--	X	X
VT-M	--	X	X	--	X	--	X	X	--	X
VT-O										
VI										
VA	X	X	X	--	X	X	X	X	--	X
WA-M	X	--	X	--	X	X	X	X	--	X
WA-O	X	X	X	--	X	--	X	X	X	X
WV-M	X	--	X	--	X	X	X	X	--	X
WV-O	X	--	X	X	X	X	X	X	--	X
WI	X	X	X	X	X	--	X	X	X	X
WY	X	X	X	--	X	X	X	X	--	X

SB 304 - Proposal To Move Medical Board Investigators to the Department of Justice

PROS:

- Investigators will receive a higher salary, which will address retention issues.
- Concept should streamline the enforcement process by placing investigations and prosecution under the jurisdiction of one agency.
- Medical Board investigators and Deputy Attorneys General could more easily be co-located, which will enhance communication.

CONS:

- The Medical Board will have no control or authority over investigations or timelines.
- The Medical Board will have no input on the decisions made regarding the outcome of a case (e.g. whether a case is referred for discipline, whether a case is closed, whether a public letter of reprimand is offered, settlement proposals, etc.), thus this could conflict with disciplinary guidelines.
- The Medical Board will be held accountable for the activities of another agency.
- Implementation issues will need to be addressed - enforcement staff will undergo a reorganization and contracts will need to be redone for existing field offices.
- Will increase what the Medical Board will pay for investigations, with higher salaries and associated costs; however, the full fiscal impact has not yet been determined.
- Board will be required to ask for the return of the loan to the Administration much sooner than currently projected.