

## MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: January 26, 2023  
 ATTENTION: Members, Medical Board of California  
 SUBJECT: New Legislative Proposals  
 STAFF CONTACT: Aaron Bone, Chief of Legislation and Public Affairs

### REQUESTED ACTION

To approve the proposed minor and technical legislative proposals, as discussed below. Following approval from the Members of the Medical Board of California (Board), staff will contact the Legislature to seek approval for these proposals.

### Background

Pursuant to [Business and Professions Code \(BPC\) section 2224](#), the Board is authorized to delegate to the Executive Director, or other personnel, certain authority to conduct investigations and inspections related to its mission of consumer protection. As a part of that delegated authority, the Executive Director is authorized to adopt disciplinary decisions that are the result of a default or a stipulation for the surrender of a license.

Pursuant to [BPC section 2232](#), the Board shall automatically revoke the license of anyone who is required to register as a sex offender, as specified.

Pursuant to [Health and Safety Code \(HSC\) section 123110](#), health care providers are required to provide their patients, including patient representatives, a copy or summary of their patient records, upon request, within specified timeframes. With certain limitations, this section authorizes a provider to impose a reasonable, cost-based fee for providing such documents.

### Recommended Minor and Technical Legislative Proposals

#### **Updating Executive Director Delegated Authority**

Current law requires the Board to delegate authority to the Executive Director to approve the disciplinary action that results from a default or a stipulated settlement to surrender. This helps to efficiently handle matters when the licensee in question does not dispute the charges against them or has otherwise agreed to give up their license.

BPC 2224 does not, however, address circumstances when an automatic revocation occurs. In such situations, license revocation is required by statute, therefore action by a Board panel is not required to adopt a decision. However, this code section does not specifically authorize the Executive Director to approve these disciplinary actions.

Accordingly, staff recommend that BPC section 2224 be amended to clarify that the Executive Director has authority to adopt an automatic revocation without further action from a Board panel, to read as follows:

(a) The board may delegate the authority under this chapter to conduct investigations and inspections and to institute proceedings to the executive director of the board or to other personnel as set forth in Section 2020. The board shall not delegate its authority to take final disciplinary action against a licensee as provided in Section 2227 and other provisions of this chapter. The board shall not delegate any authority of the Senior Assistant Attorney General of the Health Quality Enforcement Section or any powers vested in the administrative law judges of the Office of Administrative Hearings, as designated in Section 11371 of the Government Code.

(b) Notwithstanding subdivision (a), the board shall delegate to its executive director the authority to adopt a decision entered by default, and a stipulation for surrender of a license, and automatic revocations.

### **Addressing Incorrect Cross-References Related to Patient Records**

In 2018, legislation was enacted to update certain requirements in HSC section 123110 for healthcare providers to provide patients a copy of their healthcare records free of charge. The 2018 amendments reorganized the language that authorizes physicians may charge their patients to make copies or summaries of patient records. This code section, however, requires a technical, non-substantive change to correct an obsolete reference to previously deleted language.

Therefore, staff suggest amending HSC section 123110, in relevant part, to read as follows:

(a) Notwithstanding Section 5328 of the Welfare and Institutions Code, and except as provided in Sections 123115 and 123120, any adult patient of a health care provider, any minor patient authorized by law to consent to medical treatment, and any patient's personal representative shall be entitled to inspect patient records upon presenting to the health care provider a request for those records and upon payment of reasonable costs, as specified in subdivision (j) ~~(k)~~. However, a patient who is a minor shall be entitled to inspect patient records pertaining only to health care of a type for which the minor is lawfully authorized to consent. A health care provider shall permit this inspection during business hours within five working days after receipt of the request. The inspection shall be conducted by the patient or patient's personal representative requesting the inspection, who may be accompanied by one other person of their choosing.

(b) (1) Additionally, any patient or patient's personal representative shall be entitled to a paper or electronic copy of all or any portion of the patient records that they have a right to inspect, upon presenting a request to the health care provider specifying the records to be copied, together with a fee to defray the costs of producing the copy or summary, as specified in subdivision (j) ~~(k)~~. The health care provider shall ensure that the copies are transmitted within 15 days after receiving the request.