



**CALIFORNIA BOARD OF PODIATRIC MEDICINE  
 MARCH 4, 2016**

**SUBJECT: LEGISLATIVE PROGRAM REPORT**

**ACTION: RECEIVE AND FILE**

**60**

**RECOMMENDATION**

**Committee Members:**

Kristina Dixon, Chair  
 Michael Zapf

Receive the status update report regarding Legislative Matters

**ISSUE**

This report summarizes recent legislative activities that may impact the Board of Podiatric Medicine (“BPM”). This report provides the Legislative Committee with information regarding legislative and regulatory matters as well as updates on related activities of the BPM.

**A. LEGISLATIVE OUTREACH**

As part of the legislation and regulations objectives outlined in BPM’s most recent Strategic Plan, BPM has been meeting with the staff of legislators at the Capitol. Below is a listing of the meetings the BPM had with legislators in 2015:

<u>June 5, 2015</u>	<u>Sept. 17, 2015</u>	<u>Nov 13, 2015</u>	<u>Nov 17, 2015</u>
S-Bob Wieckowski, D-Fremont	S-Kevin DeLeon, D-Los Angeles	S-Marty Block, D-San Diego	A-Mike Gatto, D-Glendale
A-Chris R. Holden, D-Pasadena	A-Bill Dodd, D-Napa	S-Hanna Beth Jackson, D-Santa Barbara	A-Brian W. Jones, R-Sante
Committee Staff Senate B & P & E	A-Scott Wilk, R-Santa Clarita	A-Nora Campos, D-San Jose	A-Ling Ling Chang, R-Diamond Bar
Committee Staff Assembly B&P	S-Tony Mendoza, D-Artesia	A-Kevin Mullin, D-S San Francisco	A-Catharine B. Baker, R-Dublin
	S-Patricia Bates, R-Laguna Niguel		

During these legislative meetings, discussions focused on BPM’s Sunset Review, enforcement, licensing, administration, ankle certification, and educational issues. The general feedback from legislative staff was very supportive. The Members of the BPM

Legislative Committee will be invited to participate in visits to the offices of legislators at the meetings in 2016 that will occur in Sacramento, and these will include meetings in June, September, and November.

## **B. LEGISLATION UPDATE – 2015 - 2016**

Please note that at this time of year, new legislation is being introduced regularly. Accordingly, this report will likely be supplemented with additional bills at the next BPM Board Meeting on March 4, 2016. All efforts will be made to keep the BPM Legislative Committee and Board up to date on all other proposed legislation relevant to BPM.

As to the bills listed below, BPM staff recommends neutral positions on all bills except for AB 572 and AB 1174 which staff recommends supporting. If after discussion, the Legislative Committee votes to take a position either in support or opposition, the final legislative report to the Board on March 4, 2016 will reflect the recommendation.

### **AB 12 (Cooley) State government: administrative regulations: review**

Location: Appropriations: Held in submission on 8-27-15

This bill would require every state agency to review all provisions of the California Code of Regulations (CCR) it has adopted, and to adopt, amend, or repeal any regulations identified as duplicative, overlapping, or out of date by January 1, 2018. BPM is already attempting compliance with this proposed legislation.

### **AB 21, (Wood) Medical marijuana: cultivation licenses.**

Location: Senate Health Committee 1-27-16

This bill is the promised “clean up” legislation needed when The Medical Marijuana Regulation and Safety Act of 2015 (MMRSA) was passed. Most importantly it repeals a March 1, 2016 deadline by which cities and counties must act on ordinances to regulate or ban medical marijuana cultivation. In terms of recommending authority, Doctors of Podiatric Medicine (DPMs) are responsible for the medical care, treatment and diagnosis of their patients and have licenses to practice medicine that are issued by the Medical Board of California. Accordingly, BPM’s Executive Office maintains that DPMs satisfy the definition of “attending physician” as required by MMRSA as that legal term is defined by section 11362.7(a) of the California Health and Safety Code. Thus, DPMs are permitted to recommend medical marijuana to those patients directly under their care suffering from podiatric conditions for which marijuana would provide relief after an appropriate prior examination in accord with accepted standards of medical responsibility that are the same as any reasonable and prudent physician would follow when recommending any other medication. This reading of the law is also supported by BPM Counsel.

*Sec. 11362.7. For purposes of this article, the following definitions shall apply:*

(a) "Attending physician" means an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of marijuana is appropriate. (emphasis added.)

This particular bill does not impact BPM but the entire MMRSA legislation is very important to BPM's licensees and updates on MMRSA and its progeny will continue as this new area of legislation develops.

**AB 572 (Gaines) Diabetes prevention: treatment**

**Location:** Senate Appropriations 8-17-15

This bill establishes the California Diabetes Program (CDP) within the Department of Public Health and it will require that priorities and performance measures based on evidence-based strategies to prevent or control diabetes are established. CDPs key objectives include monitoring health status and risk factors, engaging in outreach to increase awareness, guiding public policy to support at-risk populations, offering leadership, guidance, and resources to community health interventions, seeking improvement of the health care delivery system, and reducing diabetes-related health disparities. According to the Center for Disease Control and Prevention (CDC), more than one-third of US adults are obese. One of every seven adults in California is diagnosed with diabetes and that totals almost three million people. Diabetes is a leading cause of death, adult blindness, kidney failure, and non-traumatic amputation of the lower limbs, which is particularly important to Doctors of Podiatric Medicine. Although this proposed legislation does not directly impact BPM, all issues surrounding diabetes are very important to Doctors of Podiatric Medicine and this area of legislation will be watched closely as it develops.

[Related legislation includes:

**SB 203** (Monning) Sugary sweetened beverages, safety warnings  
(Failed in the Senate Health Cmte)

**AB 270** (Nazarian) Specialized license plates, diabetes awareness.  
(Pending in the Senate Appropriations Committee)]

**AB 611 (Dahle) Controlled substances: prescriptions: reporting**

**Location:** B & P Cmte, hearing canceled at request of author on 4-21-15

Controlled Substance Utilization Review and Evaluation System (CURES)  
Prescription Drug Monitoring Program (PDMP): Existing law requires the

Department of Justice, upon approval of an application, to provide the approved health care practitioner or pharmacist the history of controlled substances dispensed to an individual under his or her care and authorizes an application to be denied, or a subscriber to be suspended, for specified reasons, including, among others, a subscriber accessing information for any reason other than caring for his or her patients. This proposed legislation is very important for BPM licensees and full compliance with CURES will continue to be encouraged. [See related legislation below: SB 482 (Lara) Controlled Substance: CURES database]

**AB 623 (Wood) Abuse-deterrent opioid analgesic drug products**

**Location:** Appropriations suspense file: Held under submission on 5-28-15

This bill relates to abuse of opioid analgesic drugs. Specifically, this bill requires pharmacists to inform patients receiving an opioid analgesic drug product on proper storage and disposal of the drug; restricts the ability of health plans and insurers to limit access to abuse-deterrent forms of opioid analgesic drugs; and requires a health plan or insurer to allow a provider to prescribe, and if otherwise covered, to provide coverage for, a less than 30-day supply of an opioid analgesic drug product. Should this legislation pass, it will be very important for BPM's licensees to understand all aspects of prescribing analgesic drug products.

**AB 750 (Low) Business and professions: licenses**

**Location:** Appropriations: Held under submission: On 5-28-15

This bill authorizes any of the boards and bureaus within DCA to establish a system for retired persons. BPM already has a retired category for licensees.

**AB 890 (Ridley-Thomas) Anesthesiologist Assistants**

**Location:** Appropriations: Held under submission: On 5-28-15.

The bill would require an anesthesiologist assistant to work under the direction and supervision of an anesthesiologist, and would require the anesthesiologist to be physically present on the premises and immediately available to the anesthesiologist assistant when medical services are being rendered and to oversee the activities of, and accept responsibility for, the medical services being rendered by the anesthesiologist assistant. The bill would authorize an anesthesiologist assistant under the supervision of an anesthesiologist to assist the supervising anesthesiologist in developing and implementing an anesthesia care plan for a patient. Doctors of Podiatric Medicine may be impacted by this proposed legislation when performing surgery and working with anesthesiologists and anesthesiologist assistants.

**AB 1174 (Bonilla) Healing arts: licensee records.**

**Location:** Senate. To Com on Rules for assignment 1-27-16

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. This bill adds the California Board of Podiatric Medicine to the list of state licensing boards required to create and maintain a central file of the names of licensees to provide an individual historical record for each licensee with information on acts of licensee misconduct and discipline. (This is an amended bill that was introduced in 2015 and originally dealt with health research and women's health.) As is, this bill does not impact BPM as BPM is already keeping historical records of licensees as mentioned above. Please see the attached summary from the Assembly Committee of Appropriations from Jan 21, 2016. (Attachment A)

### **AB 2193 (Committee on B& P) Board of Podiatric Medicine**

**Location:** Introduced on 2-18-16.

The first draft of this proposed legislation merely changes the sunset provision from January 1, 2017, to January 1, 2021. BPM should keep a close watch on this bill for any additional amendments.

### **SB 323 (Hernandez) Nurse Practitioners: scope of practice**

**Location:** Appropriations. Hearing postponed by committee on 7-14-15.

Permits Nurse Practitioners (NPs) to practice without being supervised by a physician and surgeon, if the NP has met specified requirements including possessing liability insurance and national certification. This bill seems to be partially presented as a possible solution for the shortage of primary health care physicians. Doctors of Podiatric Medicine may work directly with nurse practitioners, therefore, this bill may directly impact BPM's licensees as to supervision.

### **SB 396, (Hill) Health care: outpatient settings and surgical clinics: facilities: licensure and enforcement, (Chapter 287, Statutes of 2015)**

**Location:** This bill has become law, however, a further update on this bill was requested at the Nov. 13, 2015 BPM meeting, specifically questions regarding outpatient clinics and regulatory boards, and the analysis and chaptered bill are included for reference. This law impacts Medicare-certified clinics and accredited outpatient settings, and it requires each licensee who performs procedures in an outpatient setting that requires accreditation to be peer reviewed at least every two years. This legislation may have an impact on Doctors of Podiatric Medicine working in clinical facilities. (See Attachment B: SB 396 Analysis & SB 296, Chapter 287)

### **SB 482 (Lara) Controlled Substance: CURES database**

**Location:** Assembly, Held at Desk: 5-28-15

Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic

monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances. This bill would require all prescribers, as defined, prescribing a Schedule II or Schedule III controlled substance to consult a patient's electronic history in the CURES database before prescribing the controlled substance to the patient for the first time. The bill would also require the prescriber to consult the CURES database at least annually when the prescribed controlled substance remains part of the patient's treatment. The bill would prohibit prescribing an additional Schedule II or Schedule III controlled substance to a patient with an existing prescription until the prescriber determines that there is a legitimate need for the controlled substance. This proposed legislation is very important for BPM licensees and full compliance with CURES will continue to be encouraged [See related legislation above:

AB 611 (Dahle) Controlled substances: prescriptions: reporting]

**SB 1033 (Hill) Medical Board: disclosure of probationary status**

**Location:** To Cmte on Rules on 2-16-16. May be acted upon on or after 3-17-16. This proposal will require licensees of certain healthcare boards, including Podiatric, to disclose to an inquiring member of the public, information regarding any enforcement actions taken against the licensee. Disciplined licensees of BPM will be directly impacted by this proposed legislation.

**SENATE BP&ED COMMITTEE – Omnibus Health Board Legislative Bill**

**Proposal**

As a result of the Dixon Motion approved by the Board on November 13, 2015, the BPM Executive Office submitted proposed draft legislation to the Senate Business, Professions and Economic Development Committee today under deadline for possible inclusion in the Committee Omnibus Health Bill of 2016. The proposed language adding a Secretary to the roster of BPM board officers is tailored to provide the board greater continuity, oversight, provide a higher level of service for members in addition to achieving consistency with 7 other regulatory health boards within the Department of Consumer Affairs that have provisions similar if not identical to the proposed legislation requested. The proposal is a short, concise and non-controversial proposition that is well-suited for Omnibus Legislation. (See Attachment E).

## **C. REGULATORY UPDATE – 2015 – 2016**

1. BPM successfully submitted to the Office of Administrative Law three sections of BPM's regulations that were in need of correction for scrivener's errors. All changes were made without regulatory effect, and were filed with the Secretary of State on 9-3-15. The corrected regulations are as follows:

16 California Code of Regulations (CCR), Division 13.9:  
Sec.1399.671, Criteria for Approval of Courses;  
Sec.1399.673, Survey of Need and Self-Assessment Required; and  
Sec. 13.676, Audit and Sanctions for Noncompliance,

2. BPM is currently in the rule making process for new regulations approved by the Board on September 18, 2015, governing the conduct of oral arguments, amicus briefs, and written argument after an order of nonadoption or reconsideration. The hearing date is set for Feb. 18, 2016 at 2005 Evergreen St, Sacramento, and the titles are as follows:

16 California Code of Regulations (CCR), Division 13.9:  
Article 13, Oral Arguments; Amicus Briefs  
Sec. 1399.730, Procedures for the Conduct of Oral Arguments;  
Sec. 1399.731, Amicus Briefs; and,  
Sec. 1399.732, Written Argument Submitted in Response to an Order of Nonadoption or Reconsideration

3. BPM is also in the rule making process for amending its regulations to implement the Uniform Standards for Substance-Abusing Healing Arts Licensees pursuant to SB 1441. The specifics are as follows:

16 California Code of Regulations (CCR), Division 13.9:  
Article 11, Disciplinary Guidelines, Sec. 1399.710; Sec. 1399.711; Sec. 1399.712; Sec. 1399.713; Sec. 1399.714; Sec. 1399.715; and Sec. 1399.716

## **D. SUNSET REVIEW UPDATE**

BPM is scheduled for automatic repeal on January 1, 2017, unless the Legislature extends the date for repeal before conclusion of the 2016 calendar year through the “Sunset Review” process. BPM approved the Sunset Report at the November 13, 2015 meeting. It and it was delivered to the Joint Committee by the December 1, 2015 deadline. BPM will have an opportunity to address the Joint Committee as detailed below. All interested stakeholders related to BPM are welcome to participate and or attend this meeting. Board members should inform BPM staff as soon as possible if they are interested in attending.

Wednesday, March 9, 2016  
Joint Hearing  
Assembly Business And Professions  
And  
Senate Business, Professions And Economic Development  
Assembly Member Bonilla, Senator Hill, Chairs

State Capitol  
9 am to 5 pm – Rm. 4202  
And  
1 pm to 5 pm – Rm. 4203

### **Sunset Review Oversight Hearing**

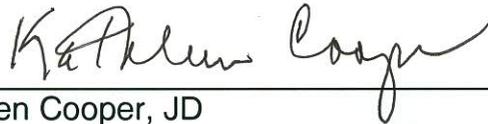
#### **Subject:**

1. Department of Consumer Affairs, Office of Attorney General, and Office of Administrative Hearings
2. Bureau of Real Estate
3. Bureau of Real Estate Appraisers
4. Court Reporters Board
5. Physician Assistant Board
6. Board of Podiatric Medicine

**ATTACHMENTS**

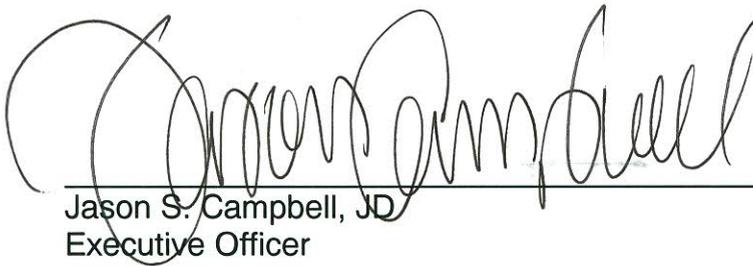
- A: Summary Analysis: Assembly Committee of Appropriations, Jan 21, 2016
- B. SB 396, Chapter 287
- C. 2016 Tentative Legislative Calendar, Secretary of Senate
- D. Legislation Matrix
- E. Senate BP&ED Committee- Proposed Legislation

Prepared by: Kathleen Cooper, JD



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Kathleen Cooper, JD  
Administrative Analyst



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Jason S. Campbell, JD  
Executive Officer

Date of Hearing: January 21, 2016

ASSEMBLY COMMITTEE ON APPROPRIATIONS  
Jimmy Gomez, Chair  
AB 1174 (Bonilla) – As Amended January 4, 2016

Policy Committee: Business and Professions Vote: 14 - 0

Urgency: No State Mandated Local Program: No Reimbursable: No

**SUMMARY:**

This bill adds the Board of Podiatric Medicine (BPM) to a list of boards required to create and maintain a database with specified professional licensee information.

**FISCAL EFFECT:**

Negligible state costs. The BPM already does what the bill requires.

**COMMENTS:**

- 1) **Purpose.** The author indicates this author-sponsored bill adds BPM to a list along with other boards, thereby clarifying the BPM's authority to continue current practice.
- 2) **Background.** The BPM regulates Doctors of Podiatric Medicine. Though functioning semi-independently and under its own professional board, BPM is part of the Medical Board of California (MBC). Because of this association, it is MBC who officially issues licenses to this small specialty group of about 2,000 practitioners upon the "recommendation" of BPM. Thus, it appears that since MBC is already included in the list to which this bill adds BPM, the list already implicitly applies to BPM. This bill would make it explicit, effectively codifying existing practice.
- 3) **BPM Sunset Review Pending.** Statutes related to the BPM expire January 1, 2017 and it is likely the sunset will be extended through legislation this year through the sunset review process. The sunset review process offers the Legislature the chance to periodically review the functioning of boards and bureaus, and make statutory changes both significant and of a minor and technical nature.

**Analysis Prepared by:** Lisa Murawski / APPR. / (916) 319-2081

**SENATE RULES COMMITTEE**

SB 396

Office of Senate Floor Analyses

(916) 651-1520 Fax: (916) 327-4478

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**UNFINISHED BUSINESS**

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Bill No: SB 396  
Author: Hill (D)  
Amended: 6/29/15  
Vote: 21

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SENATE BUS, PROF. & ECON. DEV. COMMITTEE: 9-0, 4/20/15

AYES: Hill, Bates, Berryhill, Block, Galgiani, Hernandez, Jackson, Mendoza, Wieckowski

SENATE HEALTH COMMITTEE: 9-0, 4/29/15

AYES: Hernandez, Nguyen, Hall, Mitchell, Monning, Nielsen, Pan, Roth, Wolk

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/28/15

AYES: Lara, Bates, Beall, Hill, Leyva, Mendoza, Nielsen

SENATE FLOOR: 40-0, 6/1/15

AYES: Allen, Anderson, Bates, Beall, Berryhill, Block, Cannella, De León, Fuller, Gaines, Galgiani, Glazer, Hall, Hancock, Hernandez, Hertzberg, Hill, Hueso, Huff, Jackson, Lara, Leno, Leyva, Liu, McGuire, Mendoza, Mitchell, Monning, Moorlach, Morrell, Nguyen, Nielsen, Pan, Pavley, Roth, Runner, Stone, Vidak, Wieckowski, Wolk

ASSEMBLY FLOOR: 79-0, 8/20/15 (Consent) - See last page for vote

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**SUBJECT:** Health care: outpatient settings and surgical clinics: facilities:  
licensure and enforcement

**SOURCE:** Author

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**DIGEST:** This bill requires a Medicare-certified clinic and an accredited outpatient setting, as specified, to request a report from the appropriate healthcare regulatory board regarding the filing of a peer review report; requires licensees who perform procedures in outpatient settings to be subject to peer review every two years and that the governing body review the findings of those reports; and,

specifies that inspections of accredited outpatient surgical centers may be unannounced with a 60-day warning of the pending inspection.

*Assembly Amendments:*

- 1) Strike requirements that an outpatient setting and a facility certified to participate in the federal Medicare Program as an ambulatory surgical center are required to report specified information and a fee to the Office of Statewide Health Planning and Development.
- 2) Strike provisions permitting a physician, podiatrist, or dentist to apply for licensure by the Department of Public Health (DPH) and strike provisions stating that a surgical clinic shall be eligible for licensure by the DPH regardless of physician, podiatrist, or dentist ownership.
- 3) Require that the findings of the peer review be reported to the governing body instead of the accrediting agency. Require that the peer review process that results in the findings be reviewed by the accrediting agency at the next survey to determine if the outpatient setting meets applicable accreditation standards.
- 4) Permit, rather than require, that visits subsequent to the initial accreditation inspection be unannounced. Require the accrediting agency to notify the outpatient setting that such inspections will occur within 60 days.

**ANALYSIS:**

Existing law:

- 1) Defines an "outpatient setting" to mean any facility, clinic, unlicensed clinic, center, office, or other setting that is not part of a general acute care facility, as specified, and where anesthesia or peripheral nerve blocks, or both, is used when in compliance with the community standard of practice, in doses that, when administered have the probability of placing a patient at risk for loss of the patient's life-preserving protective reflexes; and, specifies that "outpatient setting" also means facilities that include in vitro fertilization. (Health and Safety Code (HSC) § 1248(b).
- 2) Defines an "accreditation agency" to mean a public or private organization that is approved to issue certificates of accreditation to outpatient settings by the Medical Board of California (MBC), as specified. (HSC § 1248(c))

- 3) Requires the MBC to adopt standards for accreditation and, in approving accreditation agencies to perform accreditation of outpatient settings, must ensure that the certification program meet specified standards and requirements. (HSC § 1248.15)
- 4) Defines "peer review" to mean a process in which a peer review body reviews the basic qualifications, staff privileges, employment, medical outcomes, or professional conduct of licentiates to make recommendations for quality improvement and education, if necessary, in order to determine whether a licentiate may practice or continue to practice in a health care facility, clinic, or other setting providing medical services, and, if so, to determine the parameters of that practice and assess and improve the quality of care rendered in a health care facility, clinic, or other setting providing medical services. (Business and Professions Code(BPC) § 805(a)(1)(A))
- 5) Requires the chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic to file an "805 report" with the relevant agency within 15 days after the effective date on which any of the following occurs as a result of an action of a peer review body:
  - a) A licentiate's application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason;
  - b) A licentiate's membership, staff privileges, or employment is terminated or revoked for a medical disciplinary cause or reason; or,
  - c) Restrictions are imposed, or voluntarily accepted, on staff privileges, membership, or employment for a cumulative total of 30 days or more for any 12-month period, for a medical disciplinary cause or reason. (BPC § 805(b))
- 6) Requires a health facility, health care service plan, medical care foundation, or medical staff, as specified, request a report prior to granting or renewing staff privileges for any physician and surgeon, psychologist, podiatrist, or dentist, from the MBC, the Board of Psychology, the Osteopathic Medical Board, or the Dental Board of California to determine if any 805 report indicating that the applying physician and surgeon, psychologist, podiatrist, or dentist has been denied staff privileges, been removed from a medical staff, or had his or her staff privileges restricted, as specified. (BPC § 805.5(a))

This bill:

- 1) Requires an ambulatory surgery center (ASC) certified to participate in the federal Medicare program and an accredited outpatient setting, as specified, to request a report from the appropriate regulatory board prior to granting or renewing staff privileges for any physician and surgeon, psychologist, podiatrist, or dentist to determine if any report has been made indicating that the applicant has been denied staff privileges, been removed from a medical staff, or had his or her staff privileges restricted.
- 2) Extends by one year, until March 1, 2016, the due date for the report regarding the vertical enforcement and prosecution model required of the MBC, in consultation with the Department of Justice and the Department of Consumer Affairs.
- 3) Requires each licensee who performs procedures in an outpatient setting that requires accreditation to be peer reviewed at least every two years. The peer review shall be a process in which the basic qualifications, staff privileges, employment, medical outcomes, or professional conduct of a licensee is reviewed to make recommendations for quality improvement and education, if necessary, including when the outpatient setting has only one licensee. The peer review shall be performed by licensees who are qualified by education and experience to perform the same types of, or similar, procedures.
- 4) Requires that the findings of the peer review be reported to the governing body.
- 5) Requires that the accrediting agency review the peer review process at the next survey to determine if the outpatient setting meets applicable accreditation standards.
- 6) Permits visits subsequent to the initial accreditation inspection to be unannounced. Requires the accrediting agency to notify the outpatient setting that such inspections will occur within 60 days.
- 7) Makes technical and minor clarifying changes.

### **Background**

*ASC regulation.* ASCs are facilities for surgical patients who do not need to be admitted to a hospital and remain on site for less than 24 hours. As medical care

continues to shift from inpatient (hospital) type settings to clinics, many patients are using ASCs or “same-day” surgery centers for a wide variety of procedures.

According to a study of ASCs by the California Healthcare Foundation there are at least 750 ASCs in California. This number is likely larger because there is no centralized source for data on ASCs due to their diffuse regulation. Generally, ASCs which are non-physician owned are regulated by DPH, and physician-owned ASCs are regulated by the MBC, which, in turn, requires accreditation by one of four approved accrediting agencies.

*Peer Review.* Peer review is a process in which physicians evaluate colleagues’ work to determine compliance with the standard of care. A negative peer review report triggers the filing of an “805 report” to the appropriate regulatory body.

This bill will expand the list of entities which must request an 805 report to include a facility certified to participate in the Medicare program as an ASC or an accredited outpatient setting, as specified, to determine if a report has been made indicating that a licensee has had staff privileges revoked or restricted.

This bill will also require physicians working in accredited outpatient settings to be subjected to the peer review process every two years, and requires the findings from those reports to be reported to the governing body.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee, there are minor and absorbable costs to the MBC (Contingent Fund of the MBC).

**SUPPORT:** (Verified 8/24/15)

California Ambulatory Surgery Association  
Medical Board of California

**OPPOSITION:** (Verified 8/24/15)

None received

**ARGUMENTS IN SUPPORT:** The Medical Board of California writes in support, "[This bill] would require peer review evaluations every two years for physicians and surgeons working in ambulatory surgery centers and would allow the accredited outpatient setting facility inspections performed by accreditation

agencies to be unannounced (after the initial inspection) and would require at least a 60 day window to be given to facilities for unannounced inspections...The [MBC] believes that for consumer protection, physicians working in [ambulatory surgery centers] should be subject to peer review evaluations, which would be given to the governing body of the outpatient setting and be reviewed by the accreditation agency at the next inspection of the outpatient setting"

ASSEMBLY FLOOR: 79-0, 8/20/15

AYES: Achadjian, Alejo, Travis Allen, Baker, Bigelow, Bloom, Bonilla, Bonta, Brough, Brown, Burke, Calderon, Campos, Chang, Chau, Chávez, Chiu, Cooley, Cooper, Dababneh, Dahle, Daly, Dodd, Eggman, Frazier, Beth Gaines, Gallagher, Cristina Garcia, Eduardo Garcia, Gatto, Gipson, Gomez, Gonzalez, Gordon, Gray, Grove, Hadley, Harper, Roger Hernández, Holden, Irwin, Jones, Jones-Sawyer, Kim, Lackey, Levine, Linder, Lopez, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Melendez, Mullin, Nazarian, Obernolte, O'Donnell, Olsen, Patterson, Perea, Quirk, Rendon, Ridley-Thomas, Rodriguez, Salas, Santiago, Steinorth, Mark Stone, Thurmond, Ting, Wagner, Waldron, Weber, Wilk, Williams, Wood, Atkins

NO VOTE RECORDED: Chu

Prepared by: Sarah Huchel / B., P. & E.D. / (916) 651-4104  
8/24/15 13:21:59

\*\*\*\* END \*\*\*\*

## Senate Bill No. 396

### CHAPTER 287

An act to amend Section 805.5 of the Business and Professions Code, to amend Section 12529.7 of the Government Code, and to amend Sections 1248.15 and 1248.35 of the Health and Safety Code, relating to health care.

[Approved by Governor September 9, 2015. Filed with  
Secretary of State September 9, 2015.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 396, Hill. Health care: outpatient settings and surgical clinics: facilities: licensure and enforcement.

The Medical Practice Act provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law provides that it is unprofessional conduct for a physician and surgeon to perform procedures in any outpatient setting except in compliance with specified provisions. Existing law prohibits an association, corporation, firm, partnership, or person from operating, managing, conducting, or maintaining an outpatient setting in the state unless the setting is one of the specified settings, which include, among others, an ambulatory surgical clinic that is certified to participate in the Medicare Program, a surgical clinic licensed by the State Department of Public Health, or an outpatient setting accredited by an accreditation agency approved by the Division of Licensing of the Medical Board of California.

Existing law provides that an outpatient setting that is accredited shall be inspected by the accreditation agency and may be inspected by the Medical Board of California. Existing law requires that the inspections be conducted no less often than once every 3 years by the accreditation agency and as often as necessary by the Medical Board of California to ensure quality of care provided.

This bill would authorize the accrediting agency to conduct unannounced inspections subsequent to the initial inspection for accreditation, if the accreditation agency provides specified notice of the unannounced routine inspection to the outpatient setting.

Existing law requires members of the medical staff and other practitioners who are granted clinical privileges in an outpatient setting to be professionally qualified and appropriately credentialed for the performance of privileges granted and requires the outpatient setting to grant privileges in accordance with recommendations from qualified health professionals, and credentialing standards established by the outpatient setting. A willful violation of these provisions is a crime.

This bill would additionally require that each licensee who performs procedures in an outpatient setting that requires the outpatient setting to be

accredited be peer reviewed, as specified, at least every 2 years, by licensees who are qualified by education and experience to perform the same types of, or similar, procedures. The bill would require the findings of the peer review to be reported to the governing body, which shall determine if the licensee continues to be professionally qualified and appropriately credentialed for the performance of privileges granted. By expanding the scope of a crime, this bill would impose a state-mandated local program.

Existing law requires specified entities, including any health care service plan or medical care foundation, to request a report from the Medical Board of California, the Board of Psychology, the Osteopathic Medical Board of California, or the Dental Board of California, prior to granting or renewing staff privileges, to determine if a certain report has been made indicating that the applying physician and surgeon, psychologist, podiatrist, or dentist has been denied staff privileges, been removed from a medical staff, or had his or her staff privileges restricted.

This bill would also require an outpatient setting and a facility certified to participate in the federal Medicare Program as an ambulatory surgical center to request that report. By expanding the scope of a crime, this bill would impose a state-mandated local program.

Existing law establishes a vertical enforcement and prosecution model for cases before the Medical Board of California, and requires the board to report to the Governor and the Legislature on that model by March 1, 2015.

This bill would extend the date that report is due to March 1, 2016.

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 no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 805.5 of the Business and Professions Code is amended to read:

805.5. (a) Prior to granting or renewing staff privileges for any physician and surgeon, psychologist, podiatrist, or dentist, any health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code, any health care service plan or medical care foundation, the medical staff of the institution, a facility certified to participate in the federal Medicare Program as an ambulatory surgical center, or an outpatient setting accredited pursuant to Section 1248.1 of the Health and Safety Code shall request a report from the Medical Board of California, the Board of Psychology, the Osteopathic Medical Board of California, or the Dental Board of California to determine if any report has been made pursuant to Section 805 indicating that the applying physician and surgeon, psychologist, podiatrist, or dentist has been denied staff privileges, been removed from a medical staff, or had his or her staff privileges restricted as provided in

Section 805. The request shall include the name and California license number of the physician and surgeon, psychologist, podiatrist, or dentist. Furnishing of a copy of the 805 report shall not cause the 805 report to be a public record.

(b) Upon a request made by, or on behalf of, an institution described in subdivision (a) or its medical staff the board shall furnish a copy of any report made pursuant to Section 805 as well as any additional exculpatory or explanatory information submitted electronically to the board by the licensee pursuant to subdivision (f) of that section. However, the board shall not send a copy of a report (1) if the denial, removal, or restriction was imposed solely because of the failure to complete medical records, (2) if the board has found the information reported is without merit, (3) if a court finds, in a final judgment, that the peer review, as defined in Section 805, resulting in the report was conducted in bad faith and the licensee who is the subject of the report notifies the board of that finding, or (4) if a period of three years has elapsed since the report was submitted. This three-year period shall be tolled during any period the licensee has obtained a judicial order precluding disclosure of the report, unless the board is finally and permanently precluded by judicial order from disclosing the report. If a request is received by the board while the board is subject to a judicial order limiting or precluding disclosure, the board shall provide a disclosure to any qualified requesting party as soon as practicable after the judicial order is no longer in force.

If the board fails to advise the institution within 30 working days following its request for a report required by this section, the institution may grant or renew staff privileges for the physician and surgeon, psychologist, podiatrist, or dentist.

(c) Any institution described in subdivision (a) or its medical staff that violates subdivision (a) is guilty of a misdemeanor and shall be punished by a fine of not less than two hundred dollars (\$200) nor more than one thousand two hundred dollars (\$1,200).

SEC. 2. Section 12529.7 of the Government Code is amended to read:

12529.7. By March 1, 2016, the Medical Board of California, in consultation with the Department of Justice and the Department of Consumer Affairs, shall report and make recommendations to the Governor and the Legislature on the vertical enforcement and prosecution model created under Section 12529.6.

SEC. 3. Section 1248.15 of the Health and Safety Code is amended to read:

1248.15. (a) The board shall adopt standards for accreditation and, in approving accreditation agencies to perform accreditation of outpatient settings, shall ensure that the certification program shall, at a minimum, include standards for the following aspects of the settings' operations:

(1) Outpatient setting allied health staff shall be licensed or certified to the extent required by state or federal law.

(2) (A) Outpatient settings shall have a system for facility safety and emergency training requirements.

(B) There shall be onsite equipment, medication, and trained personnel to facilitate handling of services sought or provided and to facilitate handling of any medical emergency that may arise in connection with services sought or provided.

(C) In order for procedures to be performed in an outpatient setting as defined in Section 1248, the outpatient setting shall do one of the following:

(i) Have a written transfer agreement with a local accredited or licensed acute care hospital, approved by the facility's medical staff.

(ii) Permit surgery only by a licensee who has admitting privileges at a local accredited or licensed acute care hospital, with the exception that licensees who may be precluded from having admitting privileges by their professional classification or other administrative limitations, shall have a written transfer agreement with licensees who have admitting privileges at local accredited or licensed acute care hospitals.

(iii) Submit for approval by an accrediting agency a detailed procedural plan for handling medical emergencies that shall be reviewed at the time of accreditation. No reasonable plan shall be disapproved by the accrediting agency.

(D) The outpatient setting shall submit for approval by an accreditation agency at the time of accreditation a detailed plan, standardized procedures, and protocols to be followed in the event of serious complications or side effects from surgery that would place a patient at high risk for injury or harm or to govern emergency and urgent care situations. The plan shall include, at a minimum, that if a patient is being transferred to a local accredited or licensed acute care hospital, the outpatient setting shall do all of the following:

(i) Notify the individual designated by the patient to be notified in case of an emergency.

(ii) Ensure that the mode of transfer is consistent with the patient's medical condition.

(iii) Ensure that all relevant clinical information is documented and accompanies the patient at the time of transfer.

(iv) Continue to provide appropriate care to the patient until the transfer is effectuated.

(E) All physicians and surgeons transferring patients from an outpatient setting shall agree to cooperate with the medical staff peer review process on the transferred case, the results of which shall be referred back to the outpatient setting, if deemed appropriate by the medical staff peer review committee. If the medical staff of the acute care facility determines that inappropriate care was delivered at the outpatient setting, the acute care facility's peer review outcome shall be reported, as appropriate, to the accrediting body or in accordance with existing law.

(3) The outpatient setting shall permit surgery by a dentist acting within his or her scope of practice under Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code or physician and surgeon, osteopathic physician and surgeon, or podiatrist acting within his or her scope of practice under Chapter 5 (commencing with Section 2000)

of Division 2 of the Business and Professions Code or the Osteopathic Initiative Act. The outpatient setting may, in its discretion, permit anesthesia service by a certified registered nurse anesthetist acting within his or her scope of practice under Article 7 (commencing with Section 2825) of Chapter 6 of Division 2 of the Business and Professions Code.

(4) Outpatient settings shall have a system for maintaining clinical records.

(5) Outpatient settings shall have a system for patient care and monitoring procedures.

(6) (A) Outpatient settings shall have a system for quality assessment and improvement.

(B) (i) Members of the medical staff and other practitioners who are granted clinical privileges shall be professionally qualified and appropriately credentialed for the performance of privileges granted. The outpatient setting shall grant privileges in accordance with recommendations from qualified health professionals, and credentialing standards established by the outpatient setting.

(ii) Each licensee who performs procedures in an outpatient setting that requires the outpatient setting to be accredited shall be, at least every two years, peer reviewed, which shall be a process in which the basic qualifications, staff privileges, employment, medical outcomes, or professional conduct of a licensee is reviewed to make recommendations for quality improvement and education, if necessary, including when the outpatient setting has only one licensee. The peer review shall be performed by licensees who are qualified by education and experience to perform the same types of, or similar, procedures. The findings of the peer review shall be reported to the governing body, which shall determine if the licensee continues to meet the requirements described in clause (i). The process that resulted in the findings of the peer review shall be reviewed by the accrediting agency at the next survey to determine if the outpatient setting meets applicable accreditation standards pursuant to this section.

(C) Clinical privileges shall be periodically reappraised by the outpatient setting. The scope of procedures performed in the outpatient setting shall be periodically reviewed and amended as appropriate.

(7) Outpatient settings regulated by this chapter that have multiple service locations shall have all of the sites inspected.

(8) Outpatient settings shall post the certificate of accreditation in a location readily visible to patients and staff.

(9) Outpatient settings shall post the name and telephone number of the accrediting agency with instructions on the submission of complaints in a location readily visible to patients and staff.

(10) Outpatient settings shall have a written discharge criteria.

(b) Outpatient settings shall have a minimum of two staff persons on the premises, one of whom shall either be a licensed physician and surgeon or a licensed health care professional with current certification in advanced cardiac life support (ACLS), as long as a patient is present who has not been discharged from supervised care. Transfer to an unlicensed setting of a

patient who does not meet the discharge criteria adopted pursuant to paragraph (10) of subdivision (a) shall constitute unprofessional conduct.

(c) An accreditation agency may include additional standards in its determination to accredit outpatient settings if these are approved by the board to protect the public health and safety.

(d) No accreditation standard adopted or approved by the board, and no standard included in any certification program of any accreditation agency approved by the board, shall serve to limit the ability of any allied health care practitioner to provide services within his or her full scope of practice. Notwithstanding this or any other provision of law, each outpatient setting may limit the privileges, or determine the privileges, within the appropriate scope of practice, that will be afforded to physicians and allied health care practitioners who practice at the facility, in accordance with credentialing standards established by the outpatient setting in compliance with this chapter. Privileges may not be arbitrarily restricted based on category of licensure.

(e) The board shall adopt standards that it deems necessary for outpatient settings that offer in vitro fertilization.

(f) The board may adopt regulations it deems necessary to specify procedures that should be performed in an accredited outpatient setting for facilities or clinics that are outside the definition of outpatient setting as specified in Section 1248.

(g) As part of the accreditation process, the accrediting agency shall conduct a reasonable investigation of the prior history of the outpatient setting, including all licensed physicians and surgeons who have an ownership interest therein, to determine whether there have been any adverse accreditation decisions rendered against them. For the purposes of this section, "conducting a reasonable investigation" means querying the Medical Board of California and the Osteopathic Medical Board of California to ascertain if either the outpatient setting has, or, if its owners are licensed physicians and surgeons, if those physicians and surgeons have, been subject to an adverse accreditation decision.

SEC. 4. Section 1248.35 of the Health and Safety Code is amended to read:

1248.35. (a) Every outpatient setting that is accredited shall be inspected by the accreditation agency and may also be inspected by the Medical Board of California. The Medical Board of California shall ensure that accreditation agencies inspect outpatient settings.

(b) Unless otherwise specified, the following requirements apply to inspections described in subdivision (a).

(1) The frequency of inspection shall depend upon the type and complexity of the outpatient setting to be inspected.

(2) Inspections shall be conducted no less often than once every three years by the accreditation agency and as often as necessary by the Medical Board of California to ensure the quality of care provided. After the initial inspection for accreditation, subsequent inspections may be unannounced.

For unannounced routine inspections, the accreditation agency shall notify the outpatient setting that the inspection will occur within 60 days.

(3) The Medical Board of California or the accreditation agency may enter and inspect any outpatient setting that is accredited by an accreditation agency at any reasonable time to ensure compliance with, or investigate an alleged violation of, any standard of the accreditation agency or any provision of this chapter.

(c) If an accreditation agency determines, as a result of its inspection, that an outpatient setting is not in compliance with the standards under which it was approved, the accreditation agency may do any of the following:

(1) Require correction of any identified deficiencies within a set timeframe. Failure to comply shall result in the accrediting agency issuing a reprimand or suspending or revoking the outpatient setting's accreditation.

(2) Issue a reprimand.

(3) Place the outpatient setting on probation, during which time the setting shall successfully institute and complete a plan of correction, approved by the board or the accreditation agency, to correct the deficiencies.

(4) Suspend or revoke the outpatient setting's certification of accreditation.

(d) (1) Except as is otherwise provided in this subdivision, before suspending or revoking a certificate of accreditation under this chapter, the accreditation agency shall provide the outpatient setting with notice of any deficiencies and the outpatient setting shall agree with the accreditation agency on a plan of correction that shall give the outpatient setting reasonable time to supply information demonstrating compliance with the standards of the accreditation agency in compliance with this chapter, as well as the opportunity for a hearing on the matter upon the request of the outpatient setting. During the allotted time to correct the deficiencies, the plan of correction, which includes the deficiencies, shall be conspicuously posted by the outpatient setting in a location accessible to public view. Within 10 days after the adoption of the plan of correction, the accrediting agency shall send a list of deficiencies and the corrective action to be taken to the board and to the California State Board of Pharmacy if an outpatient setting is licensed pursuant to Article 14 (commencing with Section 4190) of Chapter 9 of Division 2 of the Business and Professions Code. The accreditation agency may immediately suspend the certificate of accreditation before providing notice and an opportunity to be heard, but only when failure to take the action may result in imminent danger to the health of an individual. In such cases, the accreditation agency shall provide subsequent notice and an opportunity to be heard.

(2) If an outpatient setting does not comply with a corrective action within a timeframe specified by the accrediting agency, the accrediting agency shall issue a reprimand, and may either place the outpatient setting on probation or suspend or revoke the accreditation of the outpatient setting, and shall notify the board of its action. This section shall not be deemed to prohibit an outpatient setting that is unable to correct the deficiencies, as specified in the plan of correction, for reasons beyond its control, from

voluntarily surrendering its accreditation prior to initiation of any suspension or revocation proceeding.

(e) The accreditation agency shall, within 24 hours, report to the board if the outpatient setting has been issued a reprimand or if the outpatient setting's certification of accreditation has been suspended or revoked or if the outpatient setting has been placed on probation. If an outpatient setting has been issued a license by the California State Board of Pharmacy pursuant to Article 14 (commencing with Section 4190) of Chapter 9 of Division 2 of the Business and Professions Code, the accreditation agency shall also send this report to the California State Board of Pharmacy within 24 hours.

(f) The accreditation agency, upon receipt of a complaint from the board that an outpatient setting poses an immediate risk to public safety, shall inspect the outpatient setting and report its findings of inspection to the board within five business days. If an accreditation agency receives any other complaint from the board, it shall investigate the outpatient setting and report its findings of investigation to the board within 30 days.

(g) Reports on the results of any inspection shall be kept on file with the board and the accreditation agency along with the plan of correction and the comments of the outpatient setting. The inspection report may include a recommendation for reinspection. All final inspection reports, which include the lists of deficiencies, plans of correction or requirements for improvements and correction, and corrective action completed, shall be public records open to public inspection.

(h) If one accrediting agency denies accreditation, or revokes or suspends the accreditation of an outpatient setting, this action shall apply to all other accrediting agencies. An outpatient setting that is denied accreditation is permitted to reapply for accreditation with the same accrediting agency. The outpatient setting also may apply for accreditation from another accrediting agency, but only if it discloses the full accreditation report of the accrediting agency that denied accreditation. Any outpatient setting that has been denied accreditation shall disclose the accreditation report to any other accrediting agency to which it submits an application. The new accrediting agency shall ensure that all deficiencies have been corrected and conduct a new onsite inspection consistent with the standards specified in this chapter.

(i) If an outpatient setting's certification of accreditation has been suspended or revoked, or if the accreditation has been denied, the accreditation agency shall do all of the following:

(1) Notify the board of the action.

(2) Send a notification letter to the outpatient setting of the action. The notification letter shall state that the setting is no longer allowed to perform procedures that require outpatient setting accreditation.

(3) Require the outpatient setting to remove its accreditation certification and to post the notification letter in a conspicuous location, accessible to public view.

(j) The board may take any appropriate action it deems necessary pursuant to Section 1248.7 if an outpatient setting's certification of accreditation has been suspended or revoked, or if accreditation has been denied.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

**2016 TENTATIVE LEGISLATIVE CALENDAR**  
 COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE  
 10/7/2015

**DEADLINES**

JANUARY						
S	M	T	W	TH	F	S
					1	2
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10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

FEBRUARY						
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28	29					

MARCH						
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27	28	29	30	31		

APRIL						
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MAY						
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29	30	31				

- Jan. 1** Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 4** Legislature reconvenes (J.R. 51(a)(4)).
- Jan. 10** Budget must be submitted by Governor (Art. IV, Sec. 12 (a)).
- Jan. 15** Last day for **policy committees** to hear and report to Fiscal Committees fiscal bills introduced in their house in the odd-numbered year. (J.R. 61(b)(1)).
- Jan. 18** Martin Luther King, Jr. Day observed.
- Jan. 22** Last day for any committee to hear and report to the **Floor** bills introduced in their house in 2015 (J.R. 61(b)(2)). Last day to submit **bill requests** to the Office of Legislative Counsel.
- Jan. 31** Last day for each house to **pass bills introduced in that house in the** odd-numbered year (J.R. 61(b)(3)), (Art. IV, Sec. 10(c)).

- Feb. 15** Presidents' day observed.
- Feb. 19** Last day for bills to be **introduced** (J.R. 61(b)(4), (J.R. 54(a)).

- Mar. 17** **Spring Recess** begins upon adjournment (J.R. 51(b)(1)).
- Mar. 28** Legislature reconvenes from **Spring Recess** (J.R. 51(b)(1)).

- Apr. 1** Cesar Chavez Day Observed.
- Apr. 22** Last day for **policy committees** to hear and report to Fiscal Committees **fiscal bills** introduced in their house (J.R. 61(b)(5)).

- May 6** Last day for **policy committees** to hear and report to the Floor **nonfiscal** bills introduced in their house (J.R. 61(b)(6)).
- May 13** Last day for **policy committees** to meet prior to June 6 (J.R. 61(b)(7)).
- May 27** Last day for **fiscal committees** to hear and report to the Floor bills introduced in their house (J.R. 61 (b)(8)). Last day for **fiscal committees** to meet prior to June 6 (J.R. 61 (b)(9)).
- May 30** Memorial Day observed.
- May 31 - June 3** **Floor Session only.** No committee may meet for any purpose (J.R. 61(b)(10)).

\*Holiday schedule subject to Senate Rules committee approval

**2016 TENTATIVE LEGISLATIVE CALENDAR**  
 COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE  
 10/7/2015

JUNE						
S	M	T	W	TH	F	S
			1	2	3	4
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26	27	28	29	30		

- June 3** Last day for each house to pass bills introduced in that house (J.R. 61(b)(11)).
- June 6** Committee meetings may resume (J.R. 61(b)(12)).
- June 15** Budget Bill must be passed by **midnight** (Art. IV, Sec. 12(c)(3)).
- June 30** Last day for a legislative measure to qualify for the Nov. 8 General election ballot (Elections Code Sec. 9040).

JULY						
S	M	T	W	TH	F	S
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24	25	26	27	28	29	30
31						

- July 1** Last day for **policy committees** to meet and report bills (J.R. 61(b)(13)). **Summer Recess** begins upon adjournment provided the Budget Bill has been passed (J.R. 51(b)(2)).
- July 4** Independence Day observed.

AUGUST						
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14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

- Aug. 1** Legislature reconvenes from **Summer Recess** (J.R. 51(b)(2)).
- Aug. 12** Last day for **fiscal committees** to meet and report bills (J.R. 61(b)(14)).
- Aug. 15 - 31 Floor Session only.** No committees may meet for any purpose (J.R. 61(b)(15)).
- Aug. 19** Last day to **amend** on the Floor (J.R. 61(b)(16)).
- Aug. 31** Last day for **each house to pass bills**, except bills that take effect immediately or bills in Extraordinary Session (Art. IV, Sec. 10(c)), (J.R. 61(b)(17)). **Final Recess** begins upon adjournment (J.R. 51(b)(3)).

**IMPORTANT DATES OCCURRING DURING FINAL RECESS**

- 2016**
- Sept. 30 Last day for Governor to sign or veto bills passed by the Legislature before Sept. 1 and in the Governor's possession on or after Sept. 1 (Art. IV, Sec.10(b)(2)).
- Nov. 8 General Election.
- Nov. 30 Adjournment *Sine Die* at midnight (Art. IV, Sec. 3(a)).
- Dec. 5 12 Noon convening of the 2017-18 Regular Session (Art. IV, Sec. 3(a)).
- 2017**
- Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).

\*Holiday schedule subject to Senate Rules committee approval

# BOARD OF PODIATRIC MEDICINE

## Program Activities and Legislative & Regulatory Matrix

LEGISLATION							
Ankle Certification Study Sec. 2472	In Progress						
Board Secretary Election	In Progress						
REGULATIONS							
Subject	Current Status	Date Approved by Board	Date Notice Published by OAL	Date of Public Hearing	Date to DCA (and other control agencies for Final Review	Date to OAL for Review	Date to Secretary of State
Disciplinary Guidelines-Implementation of SB 1441	To BPM Enforcement Committee on 5-20-15	11-13-15					
Scrivener's Errors –BPM Continuing Education Regulations	To BPM Licensing Committee on 5-21-15	6-5-2015	N/A	N/A	7-17-2015	7-23-2015	9-3-15 New Regulations Published
BPM Regulations for Oral Argument	To BPM Enforcement Committee on 5-20-15	9-18-2015	12-25-16	2-18-16	12-11-15		



January 08, 2016

VIA ELECTRONIC MAIL SUBMISSION & U.S. POSTAL SERVICE

Mark Mendoza  
State Business, Professions & Economic Development Committee  
1020 N Street, Room 580  
Sacramento, CA 95814

Dear Mr. Mark Mendoza,

For your consideration on behalf of the California Board of Podiatric Medicine (Board), I am pleased to submit to you and the Senate Committee on Business, Professions and Economic Development our proposal for health board legislation relating to the Board for possible inclusion with the introduction of the Omnibus Bill Proposals of 2016.

We have included a completed copy of the required form with the proposed language as instructed. We believe our proposal is a short, concise and non-controversial proposition that will establish consistency with other health boards within the Department of Consumer Affairs and enhance the policy-making effectiveness of the Board of Podiatric Medicine.

As always, we remain fully committed in our mission of consumer protection and are eager to continue fulfilling the legislative mandates set before us. Please do let us know if you have any questions and it will be our sincere pleasure to assist.

Very best regards,

A handwritten signature in black ink, appearing to read "Jason S. Campbell". The signature is written over a horizontal dashed line.

Jason S. Campbell, J.D.  
Executive Officer  
Board of Podiatric Medicine

JSC:aod

Enclosures: 1

**Senate Business, Professions and Economic Development Committee  
COMMITTEE BILL: PROPOSED LEGISLATION**

**Note:** Submit the completed form to the Committee electronically by email and as a hardcopy by mail. Attach additional information or documentation as necessary.

**REQUESTOR & CONTACT INFORMATION:**

California Board of Podiatric Medicine  
2005 Evergreen Street, Suite 1300  
Sacramento, CA 95815

Kathleen Cooper  
Administration Analyst  
[kathleen.cooper@dca.ca.gov](mailto:kathleen.cooper@dca.ca.gov)

Jason S. Campbell  
Executive Officer  
[Jason.campbell@dca.ca.gov](mailto:Jason.campbell@dca.ca.gov)

**DATE SUBMITTED:**

January 08, 2016

**SUMMARY:**

The following changes to section 2467 of the California Business and Professions Code (B&P) would establish consistency with other consumer regulatory health boards within the Department of Consumer Affairs.

**IDENTIFICATION OF PROBLEM:**

Current law statutorily authorizes various regulatory health boards within the California Department of Consumer Affairs to elect a Secretary and in some cases any other officers as the respective board may deem necessary. Additionally, the enabling statutes for some boards are silent as to the length of term of office that officers may serve. The Board of Podiatric Medicine is constricted in practice because it is limited to the election of only two board officer positions elected annually.

**PROPOSED SOLUTION:**

Amend section 2467 B&P to authorize the election of a Secretary to the list of authorized board officer positions to hold office at the pleasure of the board.

**PROGRAM BACKGROUND & LEGISLATIVE HISTORY:**

Language in former section 2525.6 pertaining to committee positions on the Podiatry Examining Committee—the predecessor agency to the board—dates back to codification in the B&P code when added by stats. 1974, Ch. 1044 for election of the chairman and vice chairman of the Committee. With passage of stats. 1986, Ch 655, and the creation of the Board of Podiatric Medicine, amended section 2467 called for the election of one member of the board to act as president and one member to act as vice president of the board.

**JUSTIFICATION:**

The proposed legislation adding a Secretary to the list of elected board positions aligns the board with general custom, preference and best practice for Board leadership. The board has not operated as an examining committee for 30 years when perhaps the existence of only a chairman and vice chairman were optimum and sufficient. The additional leadership position will help to assure continuity, provide additional oversight

and an opportunity for members to engage at a higher level of public service on the board.

**ARGUMENTS PRO & CON:**

The effects to BPM's budget and operations are minimal. The effect on public policy is positive.

**PROBABLE SUPPORT & OPPOSITION:**

No known probable opposition.

**FISCAL IMPACT:**

NONE

**ECONOMIC IMPACT:**

NONE

**FINDINGS FROM OTHER STATES:**

While other states employ various models of governance for their regulatory entities the optimum points of evaluation for the Board of Podiatric Medicine in this instance are obtained from a comparison with other consumer regulatory health boards directly within our own California Department of Consumer Affairs. Accordingly, the Medical Board of California, the Dental Board of California, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians, and the California State Board of Pharmacy all have provisions in their enabling statutes that call for the election of a Secretary (a Treasurer in 1 instance) in addition to a president and vice-president or else permit the election of any other officers as deemed necessary by the board.

**PROPOSED TEXT (use underline & strikeout):**

California Business and Professions Code

Division 2    Healing Arts

Chapter 5    Medical Practice Act

Article 22    Podiatric Medicine

**Section 2467. Meetings**

(a) The board may convene from time to time as it deems necessary.

(b) Four members of the board constitute a quorum for the transaction of business at any meeting.

(c) It shall require the affirmative vote of a majority of those members present at a meeting, those members constituting at least a quorum, to pass any motion, resolution, or measure.

(d) The board shall ~~annually~~ elect ~~one offrom~~ its members ~~to act asa~~ president ~~and,~~ a ~~member to act as~~ vice president, ~~and a secretary~~ who shall hold their respective positions at the pleasure of the board. The president may call meetings of the board and any duly appointed committee at a specified time and place.