

LEGISLATIVE COMMITTEE
MAY 11, 2016

SUBJECT: LEGISLATIVE PROGRAM REPORT

ACTION: RECEIVE AND FILE

4

RECOMMENDATION

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 current Strategic Plan, BPM has been meeting with the staff of legislators at the Capitol. Once this Committee meets and provides guidance, additional appointments will be scheduled accordingly for the June 3, 2016 Board Meeting in Sacramento.

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 June 3, 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 most bills. Staff is working with the Medical Board of California and other stakeholders on SB 1039. BPM's Executive Officer will continue working cooperatively with involved parties and other stakeholders regarding all the related details to SB 1039. The final legislative report

to the Board on June 3, 2016 will reflect this Committee's recommendations for support or opposition.

Please note that bills which have either become law or have not moved forward are listed at the end of this section and will no longer be included in future legislative reports to this Committee.

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(CCR) it has adopted, and to adopt, amend, or repeal any regulations identified as duplicative, overlapping, or out of date by January 1, 2018.

AB 2193 (Salas) Professions and Vocations

Location: Referred to Cmte on Appropriations, 4-12-16.

This bill extends the operation of the Board of Podiatric Medicine January 1, 2017, to January 1, 2021.

Staff recommends supporting AB 2193

AB 2606 (Grove) Crimes against children, elders, dependent adults, and persons with disabilities

Location: Re-referred to Cmte on Appropriations, 4-21-16

This bill requires a law enforcement agency that receives or makes a report of the commission of specified crimes by a person who holds a license allowing the person to provide services to children elders, dependent adults, or persons with disabilities, to provide a copy of that report to the state agency which issued the credential, license, or permit.

AB 2701 (Jones) Dept of Consumer Affairs: boards, training requirements

Location: Hearing canceled at the request of the author, 4-5-16

This bill would require all newly appointed members of programs within DCA to complete training that includes information about the Bagley-Keene Open Meeting Act, the Administrative Procedure Act, the Office of Administrative Law and the Department's Conflict of Interest Code.

AB 2859 (Low) Professions and vocations: retired category: licenses

Location: Re-referred to the Cmte on Appropriations, 4-12-16

This bill authorizes any board under DCA to establish, by regulation, a system for a retired category of licensure for persons not actively engaged in the practice of their profession but do not want their license to become "inactive." BPM already has a category for "retired" licensees.

SB 482 (Lara) Controlled Substance: CURES database

Location: Re-referred to Cmte on Rules, 4-7-16

This bill requires prescribers to consult the Controlled Substances Utilization Review and Evaluation System (CURES) prior to prescribing a Schedule II or III drug to a patient for the first time and delays implementation of this requirement until the Dept. of Justice certifies that the CURES database is ready for statewide use.

SB 994 (Hill) Antimicrobial stewardship policies

Location: Re-referred to Appropriations, 4-20-16

Requires primary care clinics and specialty clinics, by January 1, 2018, and physicians, podiatrists and dentists when applying for their next renewal license, to adopt and implement an antibiotic stewardship policy. Upon filing an application for a renewal license, the licensee will certify in writing, on a form prescribed by the Board, that he or she has both adopted Antimicrobial stewardship policies and that he or she is in compliance with that policy.

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

Location: Set for hearing on 4-25-16

This bill requires physicians and surgeons, osteopathic physicians and surgeons, podiatrists, acupuncturists, chiropractors and naturopathic doctors to notify patients of their probationary status before visits take place.

SB 1039 (Hill) Professions and Vocations

Location: Re-referred to BP&E Committee on 4-12-16

This omnibus bill contains provisions creating the Board of Podiatric Medicine within the Department of Consumer Affairs rather than within the Medical Board of California. BPM's executive staff testified at the April 18th BP&E Hearing as to the impact this bill could have on BPM and its finances as well as its ability to internalize enforcement activities currently provided by the Medical Board of California. As this bill continues to develop BPM will continue to update this Committee.

SB 1155 (Morrell) Professions and vocations: licenses: military service

Location: Placed on Appropriations suspense file, 4-25-16

This bill requires every board under the Department of Consumer Affairs to grant a waiver for the application and initial licensing fee to an honorably discharged veteran.

SB 1195 (Hill) Professions and Vocations, boards, competitive impact

Location: Re-referred to Cmte on Appropriations 4-16-16

Grants authority to the Director of the DCA to review a decision or other action, except as specified, of a board within DCA to determine whether it unreasonably restrains trade and to approve, disapprove, or modify the board decision or action, as specified, of a board within the DCA to determine whether it unreasonably restrains trade and to approve, disapprove, or modify the board decision or action, as specified; clarifies when a judgment or settlement for treble damages antitrust

award would be granted for a member of a regulatory board; and provides for an additional standard for the Office of Administrative Law to follow when reviewing regulatory actions of state boards.

SB 1348 (Cannella) License applications: military experience

Location: Placed on Appropriations suspense file, 4-25-16

This bill requires regulatory boards and bureaus within the Department of Consumer Affairs to indicate on license applications that veterans may be able to apply military experience and training towards license requirements.

SB 1478 (BP & E) Professions and Vocations, Healing Arts

Location: Re-referred to the Committee on Appropriations 4-19-16

This bill contains provisions impacting many of the healing arts boards. This bill amends the Board of Podiatric Medicine's list of officer positions in the Business and Professions Code, Sec. 2467, which authorizes the election of a President and President-Elect. This bill will add the position of Secretary to the list of authorized board officer positions.

Staff Recommends Supporting SB 1478.

Bills from prior BPM Legislative Reports:

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

Location: Chaptered by Sec of State 2-3-16.

Bill was a clean up bill for the medical marijuana legislation and it has become law.

-AB 572 (Gaines) Diabetes prevention: treatment

Location: Senate Appropriations. Held in submission 8-17-15

This bill has not moved forward.

-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)

This bill has not moved forward.

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

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

This bill has not moved forward. See 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 has not moved forward.

-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.

This bill has not moved forward.

-AB 890 (Ridley-Thomas) Anesthesiologist Assistants

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

The bill dealt with anesthesiologist assistants.

This bill has not moved forward.

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

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

The content of this bill is now regarding automotive repairs.

-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.

This bill has not moved forward.

-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. It impacts peer review cycles and Medicare clinics.

C. REGULATORY UPDATE – 2015 – 2016

1. BPM is in the rulemaking process for adopting regulations dealing with Oral Arguments, Amicus Briefs, and Written Arguments in response to an order of non-adoption or reconsideration. A hearing was tentatively set for May 31, 2016 but BPM is in the process of preparing for an extension on the hearing so that notice is properly given to all stakeholders and the public. The first attempt at notice failed as BPM's notice did not include listserve entities and a second attempt failed as there was also a failure where DCA did not upload the notice on BPM's website within the 45 days required prior to the hearing date.

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 Non-adoption or Reconsideration

2. BPM is also in the rulemaking process for amending its regulations to implement the Uniform Standards for Substance-Abusing Healing Arts Licensees pursuant to SB 1441. Drafts are almost ready for BPM's legal counsel to review. 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

3. BPM is in the rulemaking process for amending its regulations to correct scrivener's errors in Citation and Fines, section 1399.696(c)(61) to implement a proposed non-substantive change without regulatory effect. This section incorrectly references section 2225(d) of the California Business and Professions Code which should in fact reflect section 2225(e) instead. This will correct referential errors when BPM imposes citations and fines.

4. BPM is bringing this Continuing Education for Acupuncture matter before the Licensing Committee on 5-11-16. Section 1399.672 needs to be amended to correct scrivener's errors. Section 1399.672 specifies continuing education matters as codified in 1399.661 but it should refer to 1399.662. By correcting non-substantive errors in code references, BPM will correctly list the requirements for a licensee practicing acupuncture.

D. SUNSET REVIEW UPDATE

BPM was scheduled for automatic repeal on January 1, 2017, unless the Legislature extended the date for repeal before conclusion of the 2016 calendar year through the "Sunset Review" process. The BPM Sunset Report was reviewed by the Senate Business, Professions, and Economic Development and oral presentations were made by the President, Dr. John Cha, BPM President, Kristina Dixon, BPM Board Member, and Jason Campbell, BPM Executive Officer, on March 9, 2016 at a Joint Hearing of both Senate and Assembly leaders. The Report was well received and successful in extending the operation of BPM. Please refer to proposed legislation, AB 2193, that extends the operation of the Board of Podiatric Medicine from January 1, 2017 to January 1, 2021.

ATTACHMENTS

- A. Regulatory Matrix
- B. Legislative Timeline
- C. BPM Timeline

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FOR

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BOARD OF PODIATRIC MEDICINE
Program Activities and Legislative & Regulatory Matrix

LEGISLATION							
Board Secretary Election	In Progress	03-04-16		The creation of a Secretary Officer Position on the BPM Board Officer Position is included in SB 1478. Referred to the Committee on Appropriations, 4-19-16.			
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	Staff finishing the file to submit to DCA for final review, before submitting to OAL				
BPM Regulations for Oral Argument	To BPM Enforcement Committee on 5-20-15	9-18-2015	12-25-16	2-18-16 5-31-16			
Citation and Fines	To BPM Enforcement Committee on 2-10-16	3-04-16	Staff finishing the file to submit to DCA for final review, before submitting to OAL				
Continuing Education for Acupuncture Practice	To BPM Licensing Cmte on 5-11-16		Staff finishing the file to submit to DCA for final review, before submitting to OAL				

Prepared by Kathleen Cooper
Updated on May 3, 2016
For questions, call 916-263-2368

*DCA is allowed 30 calendar days for review
**OAL is allowed 30 working days for review
***Rulemakings become effective on a quarterly basis, unless otherwise specified.

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
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

FEBRUARY						
S	M	T	W	TH	F	S
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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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22	23	24	25	26	27	28
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
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
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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10	11	12	13	14	15	16
17	18	19	20	21	22	23
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						
S	M	T	W	TH	F	S
	1	2	3	4	5	6
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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)).

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BPM Calendar

