
THIRD READING

Bill No: AB 1102
Author: Low (D)
Introduced: 2/18/21
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 14-0, 7/12/21
AYES: Roth, Melendez, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado,
Jones, Leyva, Min, Newman, Ochoa Bogh, Pan

ASSEMBLY FLOOR: 74-0, 4/8/21 (Consent) - See last page for vote

SUBJECT: Telephone medical advice services

SOURCE: Author

DIGEST: This bill clarifies that a telephone medical advice service is required to ensure that all health care professionals providing telephone medical advice services from an out-of-state location are operating consistent with the laws governing their licenses, in addition to their respective scopes of practice, and clarifies that a telephone medical advice service is required to comply with directions and requests for information made by the respective in-state healing arts licensing boards.

ANALYSIS:

Existing law:

- 1) Establishes the Department of Consumer Affairs (DCA) within the Business, Consumer Services, and Housing Agency to house licensing boards, bureaus, committees and a commission for purposes of licensure and regulation. (BPC § 100-144.5)

- 2) Regulates telephone medical advice services through the licensing boards responsible for the practice of the licenses providing the advice. (BPC § 4999-4999.7)
- 3) Defines “telephone medical advice” as a telephonic communication between a patient and a health care professional in which the health care professional’s primary function is to provide to the patient a telephonic response to the patient’s questions regarding the patient’s or a family member’s medical care or treatment, including assessment, evaluation, or advice provided to patients or their family members. (BPC § 4999.7(b))
- 4) Defines “telephone medical advice service” as any business entity that employs, or contracts or subcontracts, directly or indirectly, with, the full-time equivalent of five or more persons functioning as health care professionals, whose primary function is to provide telephone medical advice, that provides telephone medical advice services to a patient at a California address. The definition does not include a medical group that operates in multiple locations in California if no more than five full-time equivalent persons at any one location perform telephone medical advice services and those persons limit the telephone medical advice services to patients being treated at that location. (BPC § 4999)
- 5) Defines “health care professional” as an employee or independent contractor who provides medical advice services and is appropriately licensed, certified, or registered as a dentist, dental hygienist, dental hygienist in alternative practice, or dental hygienist in extended functions, as a physician and surgeon, as a registered, as a psychologist, as a naturopathic doctor, as an optometrist, as a marriage and family therapist, as a licensed clinical social worker, as a licensed professional clinical counselor, or as a chiropractor, and who is operating consistent with the laws governing the licensee’s respective scopes of practice in the state in which the licensee provides telephone medical advice services. (BPC § 4999.7)

This bill:

- 1) Clarifies that a telephone medical advice service is required to ensure that all health care professionals who provide telephone medical advice services from an out-of-state location are operating consistent with the laws governing their respective licenses, in addition to their scopes of practices.

- 2) Clarifies that a telephone medical advice service is required to comply with all directions and requests for information made by the respective healing arts licensing boards.

Background

Telephone Medical Advice Services. The Telephone Medical Advice Services Bureau (TMAS) was created in 1999 (AB 285, Corbett, Chapter 535, Statutes of 1999) in response to a situation in which a Senator's constituent was unable to contact her physician over the phone, received inadequate service at a clinic, and then died after surgery at a hospital. Under that regulatory structure, any business that provided telephone medical advice services to a patient in California, who employs or contracts with five or more health care professionals, was required to register with the Bureau.

Through the sunset review oversight of DCA in 2015-2016, it was noted that consumers were already protected from unlicensed providers by the other DCA regulatory health boards because telehealth statutes had evolved to authorize and regulate the provision of healthcare remotely via the telephone and other technologies. TMAS was eliminated as of January 1, 2017.

At the time, TMAS was under the direct control of the DCA. When TMAS sunset, there was no DCA unit or division to assume the duties overseeing telephone medical advice companies, so the enforcement duties were transferred to individual boards through their existing authority over the practice of the relevant licensed practitioners.

The law, though, still requires companies to comply with DCA direction and requests for information. The DCA of course only has limited authority over licensing boards and their licensees, as boards make licensing and enforcement decisions. The law may not be as clear as to the authority of boards over telephone medical advice service businesses. This bill would clarify that the enforcement of the regulation of telephone medical advice services is within the jurisdiction of boards by requiring them to comply with directions and requests from the boards, not just the DCA.

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

SUPPORT: (Verified 7/14/21)

California Association of Orthodontists
Medical Board of California

OPPOSITION: (Verified 7/14/21)

None received

ARGUMENTS IN SUPPORT: The California Association of Orthodontists writes in support and notes, “This bill would address the problem by clarifying that the telephone medical advice companies must also comply with directions and requests for information from not just the DCA, but also any licensing board that has jurisdiction over the type of advice being provided. Further, by virtue of hiring the professionals, the companies themselves may be providing services under state law. As a result, the oversight of these companies should be clarified to also include the licensing boards. It would also clarify that a person who resides out of state and provides telephone medical advice in California must comply with the specific licensing requirements (e.g. not delinquent), not just the scope of practice requirements of their own state’s license.”

The Medical Board of California writes in support and notes, “[This bill] would specify that a telephone medical advice service is required to ensure that all health care professionals who provide telephone medical advice services from an out-of-state location are operating consistent with the laws governing their respective licenses. The bill would also specify that a telephone medical advice service is required to comply with all directions and requests for information made by the respective healing arts licensing boards. By clarifying that these organizations must comply with directions and requests from the Board with regard to the practice of medicine, AB 1102 furthers the Board’s mission of consumer protection.”

ASSEMBLY FLOOR: 74-0, 4/8/21

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Wicks, Rendon

NO VOTE RECORDED: Cooley, Holden, Mullin, Wood

Prepared by: Sarah Mason / B., P. & E.D. / 916-651-4104
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