
THIRD READING

Bill No: SB 815
Author: Roth (D), et al.
Introduced: 2/17/23
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 10-1, 4/24/23
AYES: Roth, Archuleta, Ashby, Becker, Dodd, Eggman, Glazer, Smallwood-
Cuevas, Wahab, Wilk
NOES: Alvarado-Gil
NO VOTE RECORDED: Nguyen, Niello

SUBJECT: Healing arts: medical school graduates: postgraduate training

SOURCE: Author

DIGEST: This bill makes various changes to the operations of the Medical Board of California (MBC) stemming from the joint sunset review oversight of the board and extends MBC operations until January 1, 2028.

ANALYSIS: Existing law establishes MBC, until January 1, 2024, tasked with the regulation of physicians and surgeons and various allied health professions through the administration of the Medical Practice Act (MBC Act).

This bill makes various changes to the operations of the MBC stemming from the joint sunset review oversight of the board, including:

- 1) Extends MBC operations and MBC authority to hire an executive director until January 1, 2028.
- 2) Adds two public members to MBC, appointed by the Senate Committee on Rules and the Speaker of the Assembly.
- 3) Increases fees for physician and surgeon licensees in order to ensure MBC solvency.

- 4) Requires MBC to establish a Complainant Liaison Unit comprised of board staff responsible for responding to communications from the public about the complaint review and enforcement process, assisting with coordinating communications between the complainant and investigators; responding to questions from a complainant regarding any appeals process available to a disciplined licensee; conducting and supporting public outreach, and evaluating and responding to requests from complainants to review a complaint closure that the complainant believes was made in error.
- 5) Makes various technical and conforming changes to postgraduate licenses issued by MBC, as well as other updates aimed at ensuring that the process allows for flexibility and appropriately reflects training program participation options and completion without limiting license holders to certain timeframes.
- 6) Updates the toll on the statute of limitations to reflect the date of a superior court's issuance of an order to show cause.
- 7) Requires, when requested by an authorized officer of the law or by an authorized MBC representative, the owner, corporate officer, or manager of an entity licensed by the Board of Pharmacy to provide records within 3 days of when the request was made.
- 8) Requires MBC licensees to participate in an interview no later than 30 calendar days after being notified when the licensee is under investigation.
- 9) Specifies that conviction of a felony by a licensee, where the conviction involves, moral turpitude, dishonesty or corruption, fraud, and sexual assault, whether in the course of the licensee's actions as a physician and surgeon or otherwise, constitutes cause for license revocation. Specifies that no expert relationship is required to prove the relationship between these types of felony convictions and the practice of medicine. Clarifies that the conviction of an offense other than those that constitute cause for revocation but are substantially related to the practice of medicine constitute unprofessional conduct.
- 10) Clarifies that failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients for at least seven years after the last date of service to a patient constitutes unprofessional conduct.

- 11) Sets additional limits on the timeframe within which a licensee on probation can petition MBC for a modification of probation and authorizes MBC to establish a fee for license reinstatement or penalty modification.
- 12) Requires the exchange of expert witness testimony to take place no later than 90 calendar days prior to an original disciplinary hearing, rather than only 30 days as current law requires.
- 13) Specifies that the standard of proof required to obtain an order on a statement of issues or accusation for a violation that would result in license suspension or revocation shall be a clear and convincing evidence standard and a preponderance of the evidence standard for any other violation.
- 14) Strikes authority for MBC to include questions on a mandatory questionnaire submitted to MBC at the time of renewal related to mental, physical, emotional, or behavioral disorders instead allows MBC to simply ask about disorders that would impair the physician's ability to practice medicine safely.
- 15) Transfers the registration program for research psychoanalysts from MBC to the Board of Psychology.

Background

In early 2023, the Senate Business, Professions and Economic Development Committee and the Assembly Committee on Business and Professions (Committees) began their comprehensive sunset review oversight of 8 regulatory entities including the Board. The Committees conducted two oversight hearings in March of this year. This bill and the accompanying sunset bills are intended to implement legislative changes as recommended by staff of the Committees and which are reflected in the Background Papers prepared by Committee staff for each agency and program reviewed this year.

MBC was subject to the Legislature's sunset review oversight throughout 2021. The Committees held two hearings in 2021 to discuss a multitude of issues raised about every aspect of MBC functions. SB 806 (Roth, Chapter 649, Statutes of 2021) continued MBC operations for only two years, through January 1, 2024, to allow the Legislature additional time to evaluate MBC. SB 806 also required the Director of the Department of Consumer Affairs (DCA) to appoint an independent enforcement monitor to monitor the MBC's enforcement efforts, with specific

concentration on the handling and processing of complaints and timely application of sanctions or discipline imposed on licensees and persons in order to protect the public.

Following the passage of SB 806 and prior to DCA appointing the enforcement monitor, MBC submitted a series of proposals to the Legislature on January 5, 2022 to further amend the Act beyond what was contained in SB 806, including requests for statutory changes related to Board administration, licensing processes, enforcement enhancements, and notably MBC's dire fiscal condition. On May 6, 2022, the Senate Committee on Business, Professions, and Economic Development held a hearing, *Medical Board of California: Enforcement Processes, Deficiencies, and Opportunities for Reform - Evaluating the Medical Board of California's 2022 Proposals for Statutory Updates* to discuss the enforcement-related proposals. While MBC's requests impacted many areas of MBC operations, the focus of the hearing was on specific proposals related to MBC enforcement.

DCA contracted with the independent enforcement monitor in July 2022. The initial enforcement monitor report (2023 Preliminary Monitor Report) was submitted to the Legislature on March 7, 2023, with expectations for a final report by July 5, 2023.

The changes in this bill stem directly from MBC's requests for updates to the Act as contained in their Sunset Report 2022 provided to the Legislature in January 2023, from the background paper prepared in advance of sunset review oversight hearings, from discussions at a hearing held in March 2023, and from other public conversations about MBC operations that have taken place in the form of informational and oversight hearings for the past number of years.

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

SUPPORT: (Verified 4/27/23)

None received

OPPOSITION: (Verified 4/27/23)

None received

Prepared by: Sarah Mason / B., P. & E.D. /
4/28/23 15:14:57

****** END ******