
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair

2023 - 2024 Regular Session

SB 815 (Roth) - Healing arts

Version: May 8, 2023

Urgency: No

Hearing Date: May 15, 2023

Policy Vote: B., P. & E.D. 10 - 1

Mandate: Yes

Consultant: Janelle Miyashiro

Bill Summary: SB 815 extends the operation of the Medical Board of California (MBC) to January 1, 2028 and makes changes recommended during the joint sunset review of the MBC, as specified.

Fiscal Impact: The 2023-24 Governor's Budget provides approximately \$80.2 million (Contingent Fund of the MBC) and 190.5 positions to support the continued operation of the MBC's licensing and enforcement activities.

The MBC reports:

- Ongoing costs of \$1,473,000 to support the new Complaint Liaison Unit in responding to communications from the public and for additional workload for the Central Complaint Unit in conducting interviews on all complaints prior to closure.
- Increased per diem and one-time training costs and other associated resources to support the two additional public members, which is anticipated to be absorbable.
- Unknown, but likely absorbable one-time costs to update processes and forms related to postgraduate training licenses and adopt new regulations.
- Unknown savings from transferring the Research Psychoanalyst Program to the Board of Psychology.
- Increased initial license and renewal fee revenue of approximately \$8,498,000 in Fiscal Year (FY) 2023-24 and \$34,036,000 in FY 2024-25 and ongoing. Increased fee revenue may support the MBC in repaying its current loan commitments future personal service growth, as well as future growth in resources as related to MBC's licensing and enforcement needs.

The Board of Psychology reports ongoing costs of approximately \$162,000 to address an increase in workload associated with the transfer of the Research Psychoanalyst registration program (Psychology Fund).

The Office of Information Services (OIS) estimates a total fiscal impact of approximately \$97,000, which \$80,000 is considered non-absorbable by the OIS. IT costs include data transfer of the Research Psychoanalyst License type from the MBC to the Board of Psychology as well as creation of new license and enforcement codes, and posting updated forms to the web.

Background: The MBC was subject to the Legislature's sunset review oversight throughout 2021. The Senate Business, Professions and Economic Development Committee and the Assembly Committee on Business and Professions (Committees) held two hearings in 2021 to discuss a multitude of issues raised about every aspect of MBC functions. Additionally, the MBC submitted a series of proposals to the Legislature

on January 5, 2022 to further amend the Medical Practice Act, 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.

This bill aims to address issues pertaining to MBC recommended by policy committee staff regarding the particular issue areas which needed to be addressed.

Proposed Law:

- Extends the operation of the MBC and the MBC's authority to hire an executive director from January 1, 2024 to January 1, 2028.
- Adds two public members to the MBC, to be appointed by the Senate Committee on Rules and the Speaker of the Assembly.
- Requires the MBC to establish a Complainant Liaison Unit comprised of board staff and responsible for the following:
 - Respond to communications from the public about the complaint review and enforcement process.
 - After a complaint has been referred to a field investigation, assist with coordinating communications between the complainant and investigators.
 - Following a disciplinary decision, respond to questions from the complainant regarding any appeals process available to the disciplined licensee.
 - Conduct and support public outreach activities to improve public understanding of MBC's enforcement process.
 - Evaluate and respond to requests from complainants to review a complaint closure that the complainant believes was made in error.
- Makes various updates and changes to postgraduate training licenses (PTLs) issued by MBC.
- Additionally requires a review of a complaint involving the quality of care rendered by a physician and surgeon before complaint closure or referral to a field office for further investigation, to include an interview of the complainant, patient, or patient representative if that information is provided.
- Updates the toll on the statute of limitations to reflect the date of the superior court's issuance of an order to show cause.

- 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.
 - Upon revocation of the physician's and surgeon's certification, authorizes the holder to request a hearing within 30 days of the revocation.
- 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.
- Requires MBC licensees to participate in an interview no later than 30 calendar days after being notified when the licensee is under investigation.
- Clarifies that the following constitute unprofessional conduct:
 - Impeding an investigation or prosecution by causing a patient to rescind consent to release the patient's medical records.
 - Dissuading, intimidating, or tampering with a patient, witness or any person in an attempt to prevent them from reporting or testifying about a licensee.
 - 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.
- 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.
- Extends the timeframe, from 30 to 90 calendar days, for which the exchange of expert witness testimony is required to take place prior to an original disciplinary hearing.
- 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.
- Strikes authority for MBC to include questions on a mandatory questionnaire submitted to SMBC at the time of renewal related to mental, physical, emotional, or

behavioral disorders and instead allows MBC to ask, electronically or through mail, about disorder that would impair the physician's ability to practice medicine safely.

- Increases fees, from \$863 to \$1,350, for physician and surgeon licensees.
- Transfers the registration program for research psychoanalysts from the MBC to the Board of Psychology.
- Makes other technical, conforming, and nonsubstantive changes.

Related Legislation: SB 812 (Roth, 2023) is the California Tax Education Council sunset bill. SB 812 is pending on the Senate Floor.

SB 813 (Roth, 2023) is the Structural Pest Control Board sunset bill. SB 813 is pending on the Suspense File in this committee.

SB 814 (Roth, 2023) is the Bureau of Household Goods and Services sunset bill. SB 814 is pending on the Suspense File in this committee.

AB 1257 (Assembly Business and Professions Committee, 2023) is the Dental Hygiene Board of California sunset bill. AB 1257 is pending in Assembly Appropriations Committee.

AB 1262 (Assembly Business and Professions Committee, 2023) is the Professional Fiduciaries Bureau sunset bill. AB 1262 is pending in Assembly Appropriations Committee.

AB 1263 (Assembly Business and Professions Committee, 2023) is the Bureau of Automotive Repair sunset bill. AB 1263 is pending in Assembly Appropriations Committee.

AB 1264 (Assembly Business and Professions Committee, 2023) is the California Acupuncture Board sunset bill. AB 1264 is pending in Assembly Appropriations Committee.

Staff Comments: The boards and bureaus within the Department of Consumer Affairs are special fund agencies whose activities are funded by regulatory and license fees and generally receive no support from the General Fund. New legislative mandates may in totality create new cost pressures and impact the entity's operating costs, future budget requests, or license fees.

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