

- b) A physician who is adding to an authoring physician's patient notes if patient care has been transferred from the authoring physician to the physician who is making the additions.
- c) A physician altering, modifying, or editing the patient notes of a postgraduate training licensee, intern, resident, or postdoctoral fellow who the physician is supervising.

FISCAL EFFECT: This bill is keyed fiscal by Legislative Counsel. According to the Assembly Committee on Appropriations, OMBC and MBC anticipate minor and absorbable costs to address a small number of additional documentation-related complaints, staff training, updating written guidance, communications to licensees, and creation of a new violation code.

COMMENTS:

1. **Purpose.** This bill is sponsored by the Union of American Physicians and Dentists. According to the Author, "Trust is the lifeblood of any healthcare system. Without it, care is compromised, expertise is doubted, and lives are put at risk. AB 1637 protects our patients and strengthens physician-patient relationships. Under current law, any person has the authority to electronically alter medical documentation, leaving patient care vulnerable to manipulation, misinformation, and irreversible harm. There is a discrepancy with who is responsible and who is held accountable for medical record-keeping. AB 1637 draws clear lines of responsibility by ensuring that physician-authored notes, diagnoses, and treatment plans cannot be modified by anyone other than the physician who created them." The Author states that this bill "seeks to remedy the following deficiency in existing law: while physicians are legally responsible for maintaining accurate medical records, current law does not clearly prohibit non-authoring individuals from altering physician-authored documentation in the electronic health record (EHR) system."
2. **Background.** The Medical Practice Act requires all physicians to maintain adequate and accurate records of the services they provide to their patients for a minimum of seven years. The act also makes the failure to do so unprofessional conduct, meaning the physician is subject to disciplinary action by the MBC. The severity of the action, which ranges from probation to revocation of the license, is proportional to the gravity of the violation.

The Act does not specify what constitutes a failure to maintain the records other than adequacy, accuracy, and retention. The sponsor argues that this lack of specificity opens the door for someone other than a physician to modify the physician's records. This bill reinforces that it is the authoring physician who is responsible for the records while also making it unlawful for anyone else to modify the records.
3. **Arguments in Support.** AFSCME writes that this "bill protects the integrity of the medical record and reinforces the physician's clinical judgment. This protection is increasingly important in modern healthcare environments where documentation may pass through multiple hands, including administrative staff, third-party contractors, and electronic health record systems that allow for downstream edits.

Unauthorized or inappropriate alterations to physician documentation can lead to serious consequences, including compromised patient safety, clinical errors, liability concerns, and erosion of trust between patients and providers. For public sector physicians in particular who often work in high-volume, resource-constrained settings, maintaining the accuracy and integrity of the medical record is critical. These physicians must be able to rely on their documentation as a true and unaltered reflection of their clinical decision-making. AB 1637 ensures that accountability remains where it belongs: with the licensed physician responsible for the patient's care."

According to the California Academy of Child and Adolescent Psychiatry, "The expansion of electronic health record (EHR) systems has broadened record access to administrative staff, contractors, and third parties, creating serious uncertainty around authorship and accountability. Polls within the physicians' union found numerous doctors reporting their clinical notes being changed by supervisors who were neither the primary physician nor a licensed doctor. AB 1637 closes this gap by establishing that a physician's patient documentation is solely their responsibility and explicitly prohibiting anyone other than the authoring physician from altering, modifying, or editing patient notes, diagnoses, or treatment plans in any form."

4. **Comments.** The California Association for Nurse Practitioners writes that this bill "includes the qualification that an authorized individual acting 'under the authority delegated by the authoring physician and surgeon' may alter, modify, or edit a physician and surgeon's patient notes. That qualification is inconsistent with existing California law and practice, as pursuant to AB 890 (Wood, Chapter 265, Statutes of 2020). AB 890 gives NPs who meet specified criteria the opportunity to practice independently, without standardized procedures or physician supervision." CANP requests that the bill be amended to replace "acting under the authority delegated by the authoring physician and surgeon" with "working with the authoring physician and surgeon."

Staff notes that any personnel or other healthcare providers would only be editing physician notes pursuant to the authority delegated by a physician, regardless of the practitioner's independent authority in their own practice. For purposes of this bill, anyone editing physician notes would only be able to do so pursuant to the authorization the authoring physician delegated to that individual to undertake that task.

SUPPORT AND OPPOSITION:

Support:

Aids Healthcare Foundation
 American Federation of State, County and Municipal Employees, AFL-CIO
 California Academy of Child and Adolescent Psychiatry
 Medical Board of California

Opposition:

None received.