



MEMORANDUM

DATE	August 9, 2021
TO	Physician Assistant Board
FROM	Sonya Earley, PA-C Jennifer Carlquist, PA-C Jasmine Dhillon, Legislative/Regulatory Analyst
SUBJECT	Agenda Item 14. Report by the Legislative Committee

a. **SB 48 (Limón) Medi-Cal: Annual Cognitive Health Assessment**

Status: This bill is located in the Assembly Committee on Appropriations. On May 20, 2021, a Board position letter was sent to the Author's office. On May 28, 2021, the bill was amended to incorporate the Board's request that it apply to those physician assistant licensees who practice in a specialty where dementia would be common finding. However, on June 21, 2021, the bill was amended to delete any reference to the Physician Assistant Board and its continuing education requirements.

Summary: As amended, the bill expands the schedule of benefits to include an annual cognitive health assessment for Medi-Cal beneficiaries who are 65 years of age or older if they are otherwise ineligible for a similar assessment as part of an annual wellness visit under the Medicare Program.

Board Position: At its May 10, 2021 meeting, the Board chose to maintain its "oppose unless amended" position and directed staff to inform the Author's office of this position with the following amendment:

1) that the bill would only apply to those physician assistant licensees who practice in a specialty where dementia would be a common finding, such as geriatric, internal medicine, or primary care.

b. **AB 29 (Cooper) State Bodies: Meetings**

Status: This bill was held in the Assembly Committee on Appropriations.

Summary:

There are three main provisions of this bill:

1. Require that notice to include all writings or materials provided for the noticed meeting to a member of the state body by the staff of a state agency, board, or commission, or another member of the state body that are in connection with a matter subject to discussion or consideration at the meeting.

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2. Require those writings or materials pertaining to the meeting be made available on the state body's internet website, and to any person who requests the writings or materials in writing, on the same day as the dissemination of the writings and materials to members of the state body or at least 72 hours in advance of the meeting, whichever is earlier.
3. Prohibit a state body from discussing those writings or materials, or from taking action on an item to which those writings or materials pertain, at a meeting of the state body unless the state body has complied with these provisions.

Board Position: At its May 10, 2021 meeting, the Board chose to maintain its [watch] position.

This bill has the goal of timely transparency. Staff always complies with notice requirements and generally posts its meeting materials between 10 days and 72 hours prior to its public meetings. However, staff recognizes there are some exceptions concerning materials that are provided to the Board, most often public comment, too close to the date of the meeting that would push the Board out of compliance with the posting and dissemination requirements. In addition, since the Board relies on DCA's Internet Team for posting and they request documents be provided ten days in advance of posting, this puts staff in a bind with a burdensome production deadline resulting in documents posted the same day the materials are disseminated to the Board members.

c. **AB 107 (Salas) Department of Consumer Affairs: Boards: Temporary Licenses: Military Spouses**

Status: This bill is located in the Senate Committee on Military and Veterans Affairs.

Summary: This bill requires all boards under Department of Consumer Affairs to issue a temporary license to practice a profession or vocation to an applicant after appropriate investigation, if they meet the following requirements:

- They are married to or in a domestic partnership or legal union with an active duty member of the U.S. Armed Forces who is assigned to active duty in this state.
- They hold a current, active, and unrestricted license to practice the same profession in another state or territory of the U.S.
- They submit an application to the Board, included a signed affidavit attesting that they meet all the requirements for the temporary license. It must also include written verification from their original licensing jurisdiction stating their license is in good standing.
- They have not committed any act that would have constituted grounds for denial, suspension, or revocation of the license under California law. They also must not have been disciplined by another licensing entity or be the subject of an unresolved complaint, review, or disciplinary proceeding by another licensing entity.
- They must provide fingerprints upon request by a board.
- The Board shall request a fingerprint-based criminal history information check from the Department of Justice in accordance with subdivision (u) of Section 11105 of the Penal Code and the Department of Justice shall furnish state or

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federal criminal history information in accordance with subdivision (p) of Section 11105 of the Penal Code.

- They must pass a California law and ethics examination if the Board requires one.

This bill requires that a temporary license expires 12 months after issuance, upon issuance of an expedited license, a standard license, or a license by endorsement, whichever occurs first.

The bill would also require the Department of Consumer Affairs and each board within the department to post specified information on their internet websites relating to licensure for military spouses, the availability of temporary licenses, and permanent licensure by endorsement or credential for out-of-state applicants.

This is a new area of licensure for the Board. Staff would need to establish procedures for temporary licenses, adapt existing computer systems, and obtain Board approval. The Board is already required to expedite the licensing process for an applicant who is married to or in a domestic partnership with an active member of the U.S. military who is assigned to active duty in California, if the applicant holds a current license in the same profession in another state. The Board does not currently accept reciprocity with other states to grant a physician assistant license. Staff would need to develop procedures for processing licenses based on reciprocity.

As written, this bill requires that to obtain a temporary license, the military spouse must hold a current license in the same profession in another state. It does not require the following:

- That the licensing requirements in the other state in which the person holds a license be substantially equivalent to the requirements in California.
- That the clinical exam be passed.
- That the applicant's degree be from an accredited or approved educational institution.
- That the denial of a permanent license would invalidate a temporary license.

Each applicant's education and experience is examined by the Board licensing evaluator during the review of the application. Bypassing this review could jeopardize consumer protection.

Board Position: At its May 10, 2021 meeting, the Board took a [watch] position.

d. **AB 646 Low: Department of Consumer Affairs: Boards: Expunged Convictions**

Status: This is a two-year bill located in the Assembly Committee on Business, Professions, and Consumer Protection.

Summary: AB 646 would require programs under the Department of Consumer Affairs that post information on its website about a revoked license due to a criminal conviction to post notification of an expungement within 90 days of the board receiving an expungement order related to the conviction for those who reapply for licensure or are relicensed. Additionally, the bill would require boards, on receiving

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an expungement order, to remove the initial posting on its website that the person's license was revoked and information regarding arrests, charges, and convictions if the person is not currently licensed and does not reapply for licensure. This bill applies to all expungement orders, regardless of the conviction. However, the bill applies to former licensees that did not have the option for probation. In addition, the former licensee may not practice in the field they were formerly licensed.

Board Position: At its May 10, 2021 meeting, the Board took a [watch] position.

This bill is designed to reduce employment barriers for people with previous criminal records who have been rehabilitated and whose conviction has been dismissed, or expunged, through the judicial process.

There is already a process in place for licensees to establish they are rehabilitated through a petition for reinstatement of a revoked license with the Board. It is through this process the Board can separately make a determination if a licensee is rehabilitated since the court system may have different criteria than the Board. The licensee's expungement is taken into consideration at this time and the Board's disciplinary action, which is separate from the court's action, can be reconsidered. However, there is no process in place where the licensee's disciplinary documents are removed. Although the revocation imposed by the Board resulted from a conviction, it is a distinct action on the license unrelated to the licensee's criminal record. The purpose of having a licensee's disciplinary actions on the Board's website is to allow the consumer to see the nature of the violation so they can make an informed decision when choosing their provider.

The Board may see some minor increases in revenue if this bill passes as individuals seek expungement and apply for the removal of disciplinary documents or posting of the expungement.

The web posting and removal of documents would fall under the Board's regular pro rata towards DCA - Office of Information Services - services and would be minor and absorbable.

e. **SB 731 Durazo: Criminal Records: Relief**

Status: This bill is located in the Assembly Committee on Appropriations.

Summary: This bill would expand upon recent criminal justice reforms by implementing a system to prospectively and retroactively seal conviction and arrest records. On May 20, 2021, a Board position letter was sent to the Author's office, opposing the bill unless it was amended to exclude healing arts boards within the Department of Consumer Affairs. The author's office believes that excluding the healing arts boards would undermine the intent of the bill within this sector of employment.

This bill would:

- Expand automatic arrest record sealing to felony arrests, if the individual was neither charged nor convicted either 6 years after the arrest, or otherwise 3 years after the arrest for less serious felonies.

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- Expand automatic conviction record relief, for a defendant convicted, on or after January 1, 2005, to nonserious, nonsexual, and nonviolent felonies after an individual completes all terms of incarceration, probation, mandatory supervision, post release supervision and parole, and a further period of four years without any new convictions.
- Allow individuals convicted of a felony to petition the court for sealing relief after completing all terms of incarceration, probation, mandatory supervision, post release supervision and parole, and a further period of two years without any new convictions. These petitions are done on a case-by-case basis, with final decision-making authority retained by the courts.

The exclusion of records of arrest and conviction that were granted relief from state summary criminal history information above does not apply to records for which the recordholder is required to register as a sex offender, has an active record in the Supervised Release File, or if based on information available in the department's record, it appears the person is currently serving a sentence or if there is an indication of pending criminal charges. The exclusion of records also does not apply if the records are required to be disseminated by federal law.

Board Position: At its May 10, 2021 meeting, the Board chose to take an [oppose unless amended] position.

The purpose of this bill is to permit additional relief by way of withdrawing a plea and deleting arrest records for the purpose of most criminal background checks. This bill would have an impact on the Physician Assistant Board's licensing and enforcement programs, and it would hinder the Board's ability to carry out its legislative mandate of consumer protection. Currently, the Board completes an enforcement review for every applicant with a criminal history, determines whether the crimes committed are substantially related to the duties of licensure. Employers that perform livescan background checks with the Department of Justice will retain access to the records, including those that received relief pursuant to SB 731.

This bill does not promote public protection to the extent it reduces the Board's access to information about criminal convictions and impacts the Board's ability to exercise its discretion to deny, discipline, or revoke a license based on an applicant's criminal history.

This bill does provide greater opportunity for applicants who have arrests or convictions that do not affect their ability to provide safe services if they were to be licensed.

f. **SB 806 (Roth) Healing Arts**

Status: This bill is located in the Assembly Committee on Business & Professions.

Summary: This bill was amended on July 13, 2021 to be the Board's sunset bill. In addition to extending the sunset date for the PAB until January 1, 2026, this bill would make various statutory changes to reflect the independence of the PAB as a standalone board. The bill would remove a number of outdated references to the PAB having to consult with or receive prior approval from the Medical Board of

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California prior to taking certain actions. Additionally this bill removes the requirement that the Board establish a passing score and time and place for each examination since the current examination is administered by the National Commission on Certification of Physician Assistants (NCCPA), a private organization.

Board Position: At its May 10, 2021 meeting, the Board chose to take a [support] position.

g. **AB 562 (Low) Frontline COVID-19 Provider Mental Health Resiliency Act of 2021: Health Care Providers: Mental Health Services**

Status: This bill is located in the Senate Committee on Appropriations.

Summary: This would establish the Frontline COVID-19 Provider Mental Health Resiliency Act of 2021, which would require the Department of Consumer Affairs (DCA) to establish a mental health resiliency program, until Jan 1, 2025, in consultation with relevant health arts boards (which are defined under the amendments listed below). Under the program, the DCA would contract with one or more vendors of mental health services, as defined, for the duration of the program. The individual boards would be required to notify licensees and professionals of the program, establish application requirements – including that the applicant was a frontline COVID-19 worker, and require that all eligible licensees be granted access to the program. An applicant who knowingly makes a false statement on an application for the program is guilty of a misdemeanor.

Board Position: At its May 10, 2021 meeting, the Board chose to take a [watch] position.

The goal of this bill is to help health care workers to want to remain on the frontlines by providing targeted services more immediately and directly available that can help improve resiliency. A “frontline COVID-19 health care provider” is a person who provides or has provided consistent in-person health care services to patients with COVID-19. By going through the licensing boards, this bill seeks to help providers who do not have adequate employer-sponsored plans or employee assistance programs, have prohibitively high deductibles, are not ready to establish with a mental health provider, experience delays in finding a provider, or are no longer employed due to early retirement or other change in employment.

Because the goal of this bill is to make services available as soon as possible, it is not structured in a way that would require supervision or monitoring nor require the development of a comprehensive program. Rather, the goal would be to contract with prepackaged vendors.

This bill currently does not have a funding source and would therefore the costs of the programs would be funded through the participating boards or DCA pro rata. The author notes that funding mechanisms are currently being explored and is committed to ensuring license fee increases are not triggered. If there is no outside source of funding, or if the costs of the program are not absorbable, the author is willing to amend the bill to narrow the bill substantially or look for a different funding source down the road.

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h. **SB 395 (Caballero) Excise tax: electronic cigarettes: Health Careers Opportunity Grant Program: Small and Rural Hospital Relief Program**

Status: This bill is located in the Assembly Committee on Appropriations.

Summary: This bill Establishes the Health Careers Opportunity Grant Program (HCOP) under the administration of the Health Professions Education Foundation (HPEF) for the purpose of improving access by underrepresented students from disadvantaged backgrounds to health profession programs offered by the state's public postsecondary education institutions. This bill requires HPEF, in providing grants to eligible entities, to prioritize applicants that reflect a comprehensive approach to establishing, enhancing, and expanding health educational programs that propose to increase the number of underrepresented students from disadvantaged backgrounds pursuing a health professions career.

According to OSHPD, HPEF was established in 1987 and is the state's only nonprofit foundation statutorily created to encourage persons from underrepresented communities to become health professionals and increase access to health providers in medically underserved areas. Supported by grants, donations, licensing fees, and special funds, HPEF provides scholarship and loan repayment programs to students and graduates who agree to practice in California's medically underserved communities. Housed in OSHPD, HPEF has given 17,771 awards totaling more than \$219 million to allied health, nursing, mental health and medical students and recent graduates practicing in all 58 counties of California.

i. **AB 1306 (Arambula) Health Professions Careers Opportunity Program**

Status: This bill is located in the Senate Committee on Appropriations.

Summary:

This bill:

- Permits OSHPD to undertake the following through the Health Professions Career Opportunity Program (HCOP): a) Fund 20 pilot programs to serve 4,800 students, with: five programs each at University of California (UC) campuses, California State University (CSU), and California Community College (CCC) campuses; and, up to five programs located at private universities; b) Secure ongoing funding and establish statewide infrastructure to develop, implement, and manage the pilot program; and, c) Fund internships and fellowships to enable more students to compete for admission to graduate health professions schools or employment in the field, including, but not limited to: i) Paid summer internships for college students in community health centers, public health departments, public behavioral health settings, and with providers serving older adults, as well as community-based initiatives that promote health equity; ii) One-year postundergraduate fellowships for in-depth, pregraduate school experience in primary care and prevention, behavioral health, and older adult health; and, iii) Create 100 postbaccalaureate reapplicant slots annually at existing UC, CSU, and private

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California-based programs and the provision of student scholarships for reapplicant postbaccalaureate students to cover 100% of program tuition.

- Requires priority to be given to campuses with large numbers of underrepresented people of color and low-income students, demonstrated commitment to diversity and associated institutional change, a track record of providing tailored student support, and strong health professions school partnerships.
- Requires OSHPD to administer a competitive application process for interested institutions and five-year pilot program grants, provide technical assistance to applicants, serve as a repository for best practices, conduct pilot program evaluations, and advocate on behalf of pilot programs.

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