

MEMORANDUM

DATE	May 9, 2022
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. [AB 646](#) (Low) Department of Consumer Affairs: Boards: Expunged Convictions

Status: This bill was introduced on February 12, 2021 and is located in the Senate Committee on Appropriations.

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 an expungement order, to remove the initial posting on its *online license search system* that the person's license was revoked and information regarding arrests, charges, and convictions if the person is not currently licensed and does not reapply for licensure.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. *This bill would require the board to charge a fee of \$25 to the person to cover the reasonable regulatory cost of administering the bill's provisions, unless there is no associated cost.*

Board Position: At its August 9, 2021 meeting, the Board chose to maintain its [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. Under California law, boards under the Department of Consumer Affairs may deny a license based on specific past criminal convictions. However, an individual may not be denied a license on the basis of a

MISSION: To protect and serve consumers through licensing, education, and objective enforcement of the Physician Assistant laws and regulations.

conviction that has been expunged, dismissed, or if the person has received a certificate of rehabilitation.

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.

Fiscal Impact: 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. However, these costs may be offset by the \$25 fee on a person seeking to have information updated or removed as a result of an expungement order.

B. **SB 731 (Durazo) Criminal Records: Relief**

Status: This bill was introduced on February 19, 2021 but is considered dead as it failed passage on the Assembly Floor.

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 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.
- 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

MISSION: To protect and serve consumers through licensing, education, and objective enforcement of the Physician Assistant laws and regulations.

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 August 9, 2021 meeting, the Board chose to maintain its [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.

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

Status: This bill was introduced on February 11, 2021 and 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 boards. 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

MISSION: To protect and serve consumers through licensing, education, and objective enforcement of the Physician Assistant laws and regulations.

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 August 9, 2021 meeting, the Board chose to maintain its [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.

Fiscal Impact: 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.

D. [AB 1306](#) (Arambula) Health Professions Careers Opportunity Program

Status: This bill was introduced on February 19, 2021 and is located in the Senate Committee on Appropriations.

Summary:

- Permits the Office of Statewide Health Planning and Development (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

MISSION: To protect and serve consumers through licensing, education, and objective enforcement of the Physician Assistant laws and regulations.

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 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.

Board Position: At its August 9, 2021 meeting, the Board took a [support] position.

Fiscal Impact: The Author's office does not anticipate any costs to the healing arts boards.

E. [**AB 1733**](#) (Quirk) **State Bodies: Open Meetings**

Status: This bill was introduced on January 31, 2022 and is located in the Assembly Committee on Governmental Organization.

Summary: This bill would specify that a "meeting" held under the Bagley-Keene Open Meeting Act includes a meeting held entirely by teleconference, as defined, so long as the state body adheres to certain specified requirements such as: ensuring the public has the means to hear, observe, and address the state body during the meeting; providing the public with at least one physical location where they can participate; specify that physical presence at any physical meeting location is not necessary for the member to be deemed present at the meeting; posting the meeting agendas online and at the physical meeting location with information indicating how the meeting can be accessed; allow Board members to remotely participate in an open meeting without disclosing the remote location from which a member is participating; and ensuring that if a means of remote participation fails, the meeting must adjourn. Furthermore, this bill would exempt a board from the requirement to meet in northern and southern California each once a year if the board's meetings are held entirely by teleconference.

Fiscal Impact: None. The costs of implementing this bill would be included in DCA pro rata.

MISSION: To protect and serve consumers through licensing, education, and objective enforcement of the Physician Assistant laws and regulations.

F. **[AB 1662](#) (Gipson) Licensing boards: disqualification from licensure: criminal conviction**

Status: This bill was introduced on January 18, 2022 and is located in the Assembly Committee on Business, Professions, and Consumer Protection.

Summary: This bill would authorize a prospective applicant that has been convicted of a crime to submit to a board a request for a preapplication determination that includes information provided by the prospective applicant regarding their criminal conviction. The bill would require a board that receives that request to determine if the prospective applicant would be disqualified from licensure by the board based on the information submitted with the request and deliver that determination to the prospective applicant.

A prospective applicant that has been convicted of a crime may submit to a board, by mail or email, and at any time, including before obtaining any training or education required for licensure by that board or before paying any application fee, a request for a preapplication determination that includes information provided by the prospective applicant regarding their criminal conviction. A board shall determine if the prospective applicant may be disqualified from licensure by the board, based on the information submitted with the request and deliver the determination by mail or email to the prospective applicant within a reasonable time.

Fiscal Impact: This bill would increase staff's workload because determination requests must be made by staff when requested by an individual. The Board estimates it would receive 3 to 5 preapplication determination requests per year. This would likely increase 10-15 hours of staff time total per request, divided between 1 Staff Services Analyst, 1 Associate Governmental Program Analyst, and the Executive Officer. This could also require the Board to seek advice from a Deputy Attorney General, for more complicated cases. Since there is no fee charged to individuals who make the request, the Board would not receive any revenue to offset these costs.

MISSION: To protect and serve consumers through licensing, education, and objective enforcement of the Physician Assistant laws and regulations.