

MEMORANDUM

DATE	November 7, 2022
TO	Physician Assistant Board (Board)
FROM	Sonya Earley, PA-C Jennifer Carlquist, PA-C Jasmine Dhillon, Legislative and Regulatory Specialist
SUBJECT	Agenda Item 17. Report by the Legislative Committee

A. **AB 646 (Low) Department of Consumer Affairs: Boards: Expunged Convictions**

Status: This bill failed passage and is considered dead.

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an expungement order, to remove the initial posting on its online license search system that the person's license was revoked and information regarding arrests, charges, and convictions if the person is not currently licensed and does not reapply for licensure.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: The Board has maintained 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 conviction that has been expunged, dismissed, or if the person has received a certificate of rehabilitation.

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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 approved by the Governor on September 29, 2022 and chaptered by the Secretary of State. Chapter 814, Statutes of 2022.

Summary: 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 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 community supervision and parole, and a period of four years has elapsed during which the defendant was not convicted of a new felony offense.

This bill would, commencing July 1, 2023, generally make this arrest record relief available to a person who has been arrested for a felony, including a felony punishable in the state prison, as specified.

This bill expands discretionary expungement relief to include felonies where the defendant was sentenced to state prison, rather than just realigned felonies, as specified. If the defendant seeks relief under this section for a felony that resulted in a sentence to the state prison, the relief available under this section may only be granted if that felony did not result in a requirement to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1.

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The exclusion of records of arrest and conviction that were granted relief from state summary criminal history information 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.

Board Position: The Board has maintained 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.

Fiscal Impact: None.

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

Status: This bill failed passage and is considered dead.

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

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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.

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

Status: This bill failed passage and is considered dead.

Summary: This bill would require a board to establish a process by which prospective applicants may request a preapplication determination as to whether their criminal history could be cause for denial of a completed application for licensure by the board.

The bill would provide that the preapplication determination, among other things, may be requested by the prospective applicant at any time prior to the submission of an application and would require the board to include specified written information regarding the criteria used to evaluate criminal history and how the prospective applicant may challenge a denial by the board.

The bill would provide that a preapplication determination does not constitute a denial or disqualification of an application and would prohibit requiring a preapplication determination for licensure or for participation in any education or training program.

The bill would require a board to publish information regarding its process for requesting a preapplication determination on its internet website and authorize a board to charge a fee, as specified, to be deposited by the board into the appropriate fund and available only upon appropriation by the Legislature.

This bill would also authorize a board, as specified, to require a prospective applicant to furnish a full set of fingerprints for purposes of conducting a criminal history record check as part of a preapplication determination.

Board Position: At its May 9, 2022 meeting, the Board took an [oppose] position.

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. The fee charged by the Board to individuals who make the request could offset the costs of implementing this bill.

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E. **[AB 657 \(Cooper\)](#) Healing arts: expedited licensure process: applicants providing abortion services**

Status: This bill was approved by the Governor on September 27, 2022 and chaptered by the Secretary of State. Chapter 560, Statutes of 2022.

Summary: This bill would require the Medical Board of California, the Osteopathic Medical Board of California, the Board of Registered Nursing, and the Physician Assistant Board to expedite the licensure process of an applicant who can demonstrate that they intend to provide abortion services within their scope of practice and would specify the documentation an applicant would be required to provide to demonstrate their intent. An applicant may demonstrate their intent to provide abortion services by providing documentation, including a letter from an employer or health care entity indicating that the applicant has accepted employment or entered a contract to provide abortion services, the applicant's starting date, and the location where the applicant will be providing abortion services, and that the applicant will be providing abortion services within the scope of practice of their license.

Fiscal Impact: None.

F. **[AB 2626 \(Calderon\)](#) Medical Board of California: licensee discipline: abortion.**

Status: This bill was approved by the Governor on September 27, 2022 and chaptered by the Secretary of State. Chapter 565, Statutes of 2022.

Summary: This bill prohibits the Physician Assistant Board from suspending or revoking the certification or license of a physician assistant for performing an abortion so long as they performed the abortion in accordance with the provisions of the Physician Assistant Practice Act and the Reproductive Privacy Act.

This bill specifies that the facts constituting the necessity are that in response to the draft opinion of the United State Supreme Court stating that it would overrule the Roe v. Wade decision, several states around the nation are poised to allow professional boards to take disciplinary action against a health care provider for coordinating or providing abortion care, thus it is necessary for this act to take effect immediately to protect physicians, surgeons, certified nurse-midwives, nurse practitioners, and physician assistants.

This bill contains an urgency clause that will make it effective upon enactment.

Fiscal Impact: None.

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