



MEMORANDUM

DATE	May 10, 2021
TO	Physician Assistant Board
FROM	Sonya Earley, PA-C Jennifer Carlquist, PA-C Jasmine Dhillon, Legislative/Regulatory Analyst
SUBJECT	Agenda Item 13. Report by the Legislative Committee

a. **SB 48 (Limón) Dementia and Alzheimer’s Disease**

Status: This bill is on the third reading on the floor of the Senate. On March 4, 2021, a Board position letter was sent to the Author’s office. On March 9, 2021, the bill was amended to reduce the number of continuing education hours for physician assistant licensees to *4 hours*. The bill was not 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.

Summary: As amended, this bill requires the Board to adopt regulations to require each physician assistant licensee renewing their license, as a condition of renewal, to complete at least four (4) hours of continuing education on the special care needs of patients with dementia.

Board Position: At its February 8, 2021 meeting, the Board took an “oppose unless amended” position and directed staff to inform the Author’s office of this position with the following amendments:

- 1) that the required hours of continuing education for physician assistant licensees be four hours; and
- 2) 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 is located in the Assembly Committee on Governmental Organization.

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

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commission, or another member of the state body that are in connection with a matter subject to discussion or consideration at the meeting.

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 February 8, 2021 meeting, the Board took a [watch] position.

Staff Recommendation: Watch

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.

Recommended Motion Language: I motion that the Physician Assistant Board take a [watch] position on AB 29 (Cooper), as introduced on December 7, 2020, for the reasons discussed by members and staff and as reflected in the staff memo.

c. **[AB 54 \(Kiley\) COVID-19 Emergency Order Violation: License Revocation](#)**

Status: On April 5, 2021, the bill was amended to remove healing arts boards within Department of Consumer Affairs. This bill failed passage in committee.

Summary: As amended, this bill would prohibit the Department of Consumer Affairs, a board within the Department of Consumer Affairs, except *within the healing arts*, and the Department of Alcoholic Beverage Control from revoking a license for failure to comply with any COVID-19 emergency orders unless the board or department can prove that lack of compliance resulted in transmission of COVID-19.

d. **[SB 102 \(Melendez\) COVID-19 Emergency Order Violation: License Revocation](#)**

Status: On March 17, 2021, the bill was amended to include the language below. This bill failed passage in committee.

Summary: This bill would prohibit the Department of Consumer Affairs, a board within the Department of Consumer Affairs that does not regulate healing arts licensees, and the Department of Alcoholic Beverage Control from revoking a license or imposing a

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fine or penalty for failure to comply with any COVID-19 *state of emergency orders or COVID-19 stay-at-home orders*, unless the board or department can prove that lack of compliance resulted in transmission of COVID-19. *The bill would specify that the provisions do not preclude issuance of fines, penalties, or revoking a license for any action that is not related to the issuance of any COVID-19 state of emergency orders or COVID-19 stay-at-home order. The provisions of the bill would remain in effect until either the COVID-19 state of emergency is terminated or all COVID-19 stay-at-home orders are no longer in effect, whichever occurs later, but in no case would the provisions remain in effect after January 1, 2024.*

e. **[AB 107](#) (Salas) Department of Consumer Affairs: Boards: Temporary Licenses: Military Spouses**

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

Summary: This bill would do the following: (1) for specified boards and bureaus, expand temporary licensure for military spouses; (2) require boards and bureaus implementing temporary licensure to submit proposed regulations to the Department no later than June 15, 2022; (3) require all boards and bureaus not specified to offer license reciprocity for honorably discharged veterans and military spouses; (4) require the Department to include a prominently displayed military licensure icon on its homepage with a link to a page explaining the process for expediting licenses and the availability of temporary licenses; (5) require the Department to establish a specific gateway for the Military Member Resources page and create a new Licensure by Endorsement section; and (6) require the Department to submit an annual report to the Legislature on military and military spouse licensure.

Staff Recommendation: Watch

Recommended Motion Language: I motion that the Physician Assistant Board take a [watch] position on AB 107 (Salas), as introduced on December 16, 2021, for the reasons discussed by members and staff and as reflected in the staff memo.

f. **[AB 646](#) Low: Department of Consumer Affairs: Boards: Expunged Convictions**

Status: This bill is located in the Assembly 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 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.

Staff Recommendation: Watch

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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.

Recommended Motion Language: I motion that the Physician Assistant Board take a [watch] position on AB 646 (Low), as introduced on February 12, 2021, for the reasons discussed by members and staff and as reflected in the staff memo.

g. **[AB 339 \(Lee\) State and Local Government: Open Meetings](#)**

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

Summary: This bill would require all meetings to include an opportunity for members of the public to attend via a telephonic option and an internet-based service option. The bill would require all meetings to include an in-person public comment opportunity, except in specified circumstances during a declared state or local emergency. This bill would require all meetings to provide the public with an opportunity to comment on proposed legislation in person and remotely via a telephonic and an internet-based service option and would specify requirements for public comment registration. This bill would also require the legislative bodies of the local agency to provide interpretation services as requested, and have a system to process requests for interpretation services and publicize that system online.

This bill would require legislative bodies of local agencies to make available instructions on joining the meeting to all non-English-speaking persons upon request, and publish the instructions in the 2 most spoken languages other than English within the local agency's jurisdiction.

Staff Recommendation: Oppose

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While the intention of the bill is worthwhile in allowing for greater public access through requiring call-in, and internet-based service and instructions, and allowing for greater accommodations for non-English speakers, and those with disabilities, the logistics of meeting these legal mandates comes at a high price for these state agencies.

The areas of the bill that are of fiscal concern are publishing instructions in the 2 most spoken languages other than English and the translation of the instructions in non-English languages upon request. If the Board had to provide multiple translators for each Board meeting – four times a year, that would add up. Further, the cost of translating instructions four times a year requires additional expenditures of the Board's budget, and further affect the production timeline of agenda's to meet posting requirements.

Recommended Motion Language:

I motion that the Physician Assistant Board take a [oppose] position on AB 339 (Lee), as introduced on January 28, 2021, for the reasons discussed by members and staff and as reflected in the staff memo.

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

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

Summary: This bill would expand upon recent criminal justice reforms by creating further mechanisms for conviction dismissal.

This bill would, among other provisions, expand on provisions in AB 1076 (Ting, Chapter 578, Statutes of 2019), which restricted the criminal conviction information supplied to boards in specific circumstances, by further limiting the conviction information that boards will receive and be allowed to utilize, including for persons who were convicted of a felony any time after January 1, 1973, sentenced to state prison, and completed their sentence. Felony conviction records would be automatically sealed for individuals who have completed their sentence and have gone two years without new criminal convictions.

AB 1076 created a process for the automatic arrest record relief for people arrested for a misdemeanor or for a jail felony when the charges were dismissed or enough time has passed that it is clear there is not intent for criminal proceedings to go forward. This bill would expand those eligible for relief to those arrested for any felony, not just those for which the sentence is county jail. If the felony sentence can be more than eight years relief shall not be granted until six years have passed, otherwise relief may be granted after three years have passed.

Staff Recommendation: Watch

According to the author, an estimated 70 million people—nearly one in three adults, and 8 million people in California alone—have a past arrest or conviction on their

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record. California maintains an individual's criminal records until that person reaches 100 years of age.

As a result of the widespread usage of background checks, the permanence of these records present thousands of barriers resulting in widespread constraints on civic participation.

California's principal remedy to seal criminal records has been "expungement" which was adopted nearly 100 years ago and remains an incomplete and ineffective solution. Expungement provides only partial relief and is only available for people with misdemeanors and a small category of people with felonies that did not result in prison or jail terms.

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. This bill could significantly diminish the Board's ability to make these determinations without access to the necessary conviction information, unless an exception to allow access to records granted relief is made for state licensing boards.

Recommended Motion Language: I motion that the Physician Assistant Board take a [watch] position on SB 731 (Durazo), as introduced on February 19, 2021, for the reasons discussed by members and staff and as reflected in the staff memo.

i. **SB 806 (Roth) Physician Assistants: Written Examination**

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

Summary: This is the Physician Assistant Board's sunset bill. Existing law, the Physician Assistant Practice Act, provides for the licensure and regulation of physician assistants by the Physician Assistant Board, which is within the jurisdiction of the Medical Board of California. The act provides that the board shall require physician assistants to take and pass a written examination for licensure. The act provides that the board may make arrangements for the examination to be administered under a uniform examination system. The act, however, requires the board to establish a passing score and time and place for each examination.

This bill would remove 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. Staff will work with the Business & Professions Committee as the bill moves through the legislative process.

Staff Recommendation: Support

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Recommended Motion Language: I motion that the Physician Assistant Board take a [support] position on SB 806 (Roth), as introduced on February 19, 2021, for the reasons discussed by members and staff and as reflected in the staff memo.

j. **[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 Assembly 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 then administer the program and determine eligibility.

Staff Recommendation: Watch

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 paid from the participating boards' special funds. To the extent the new costs are not absorbable, the bill as drafted may create the need for license and/or regulatory fee increases. The author notes that funding mechanisms are currently being explored and is committed to ensuring 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, including reducing the scope of services.

Recommended Motion Language: I motion that the Physician Assistant Board take a [watch] position on AB 562 (Low), as introduced on February 11, 2021, for the reasons discussed by members and staff and as reflected in the staff memo.

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