Peer Review: The View from Sacramento

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AB 592 (Yee)
Alternative/Complementary Medicine

Provides protections for physicians who practice alternative or complementary medicine. California Business and Professions Code has been amended to add:

2234.1. (a) A physician and surgeon shall not be subject to discipline by the Medical Board solely on the basis that the treatment or advice he or she rendered to a patient is alternative or complementary medicine, including the treatment of persistent Lyme Disease, if that treatment or advice meets all of the following requirements:

(1) It is provided after informed consent and a good-faith prior examination of the patient, and medical indication exists for the treatment or advice, or it is provided for health or well-being.
AB 592 (Yee)
Alternative/Complementary Medicine, *cont’d*

(2) It is provided after the physician and surgeon has given the patient information concerning conventional treatment and describing the education, experience, and credentials of the physician and surgeon related to the alternative or complementary medicine that he or she practices.

(3) In the case of alternative or complementary medicine it does not cause a delay in, or discourage traditional diagnosis of, a condition of the patient.

(4) It does not cause death or serious bodily injury to the patient.
AB 592 (Yee)
Alternative/Complementary Medicine, cont’d

(b) For purposes of this section, “alternative or complementary medicine,” means those health care methods of diagnosis, treatment, or healing that are not generally used but that provide a reasonable potential for therapeutic gain in a patient’s medical condition that is not outweighed by the risk of the health care method.

(c) Since the National Institute of Medicine has reported that it can take up to 17 years for a new best practice to reach the average physician and surgeon, it is prudent to give attention to new developments not only in general medical care but in the actual treatment of specific diseases, particularly those that are not yet broadly recognized in California.

Status: Signed by the Governor on September 22, 2005.
AB 1113 (Yee) – Acupuncturists

Would have authorized an acupuncturist to “diagnose” within his or her scope of practice.

Status: Vetoed by the Governor.
Would add **chiropractors** to the list of providers who can perform medical examinations for drivers’ license issuance and renewal relative to school buses, public transit and farm vehicles.

**Status:** In Senate Transportation and Housing Committee; two-year bill.
**AB 1549 (Koretz) – Acupuncturists**

**Acupuncturists** – This bill would greatly expand the scope of practice of an acupuncturist by allowing them to diagnose, evaluate and determine disability within the workers compensation system. Furthermore, this bill would allow psychologists, acupuncturists, optometrists, dentists, podiatrists and chiropractors to be deemed qualified medical evaluators for purposes of performing an Independent Medical Review (IMR). Current law only allows a physician and surgeon to perform an IMR in the workers' compensation system.

**Status:** Remains in Assembly Insurance Committee.
AB 1711 (Strickland) – RNs and Pharmacists

Allows nurses and pharmacists to administer influenza and pneumococcal immunizations to patients over 50 in skilled nursing facilities, pursuant to standing orders and without patient-specific orders, if the standing orders meet prescribed federal recommendations (Advisory Committee on Immunization Practices, Centers for Disease Control and Prevention) and are approved by the facility medical director.

Status: Signed by the Governor on July 18, 2005.
SB 438 (Migden) – Dentists

Oral and Maxillofacial Surgery – This bill is a reintroduction of SB 1336 (Burton) of last year, which CMA opposed and was vetoed by the Governor. This bill greatly expands the scope of practice of dentists by allowing them to obtain a special permit to perform facial cosmetic surgery procedures (i.e. eyebrow lifts, face lifts, skin peels, and rhinoplasty).

Status: Held in Assembly Business & Professions Committee.
SB 614 (Figueroa) – Nurse Midwives

Authorizes a nurse midwife to furnish/order Schedule II substances under conditions applicable to Schedule III-V substances (i.e., both within and outside the hospital setting).

Status: Signed by the Governor on September 22, 2005.
SB 644 (Ortiz) – Pharmacists

Requires accommodation of a pharmacist who declines to fill a prescription on ethical, moral or religious grounds to assure a patient receives a prescription.

Status: Signed by the Governor on September 22, 2005.
AB 775 (Yee) – Interpreters

Would prohibit any state or local governmental agency, or any public or private agency, organization, entity, or program from using a child under 15 as an interpreter, even with patient consent, in the context of medical diagnosis and treatment. The bill is silent as to who is responsible for paying a qualified interpreter and may leave it up to the physician to cover this cost.

**Status:** In Senate Judiciary Committee; two-year bill.
AB 800 (Yee) – Medical Records

All health facilities and primary care clinics must include a patient’s principal spoken language on the patient’s health record.

**Status:** Signed by the Governor on September 22, 2005.
AB 1195 (Coto) – CME: Cultural and Linguistic Competencies

On and after July 1, 2006, all continuing medical education courses must include curriculum in the subjects of cultural and linguistic competency in the practice of medicine. Exemptions would be allowed if a course is dedicated solely to research of other issues that do not include a direct patient care component.

**Status:** Signed by the Governor on October 4, 2005.
SB 524 (Torlakson) – CME: Depression

Would require physicians and surgeons who treat patients for depression and other related ailments (specifically, through the prescribing of serotonin selective reuptake inhibitors [SSRI’s] and other newer antidepressants) to complete mandatory continuing education on that topic. It would also limit the requirement to one, four-hour course every four years, and apply the provisions only to primary care physicians.

Status: Assembly Inactive file; two-year bill.
SB 231 (Figueroa) – Medical Board

Medical Board Sunset Review – This bill would extend the sunset of the Medical Board from January 1, 2007, to January 1, 2011. In making this change, however, it also makes multiple others, including: requiring all malpractice judgments against a physician to be reported to the Medical Board, increasing the Medical Board license fees from $610 to $800, and imposing fines on physicians for noncompliance with requests from the Attorney General.

Status: Signed by the Governor on October 7, 2005.
SB 932 (Kuehl) – Peer Review

This bill, sponsored by CMA, originally sought to “establish an unbiased process for conducting peer review proceedings.” After much negotiation and maneuvering by both CHA and CMA, the bill now is limited to declaring that it is the intent of the Legislature to ensure all of the following:

(a) That peer review hearing officers and panel members make their decisions free of bias.

(b) That the peer review process is free of conflicts of interest that can undermine the credibility of decisions.
(c) That peer review is conducted in the most efficient way in order to ensure sound decisions without unreasonable delay.

(d) That physicians who are summarily suspended are allowed access to a timely, adequate, and appropriate process to ensure that those suspensions are warranted, and that hospitals do not unjustifiably suspend physicians using summary procedures.

Status: In Senate Inactive file.
Chiropractic Regulations Disapproved by Office of Administrative Law

On October 11, 2005, the Office of Administrative Law (OAL) disapproved regulations submitted by the Board of Chiropractic Examiners that would allow licensed chiropractors to perform manipulation under anesthesia.
Bureau of Naturopathic Medicine Adopts Regulations

On August 18, 2005, the Bureau of Naturopathic Medicine formally adopted regulations establishing it within the Department of Consumer Affairs. (See Title 16, Cal. Code Regs., Div. 40.) The regulations had been in effect on an emergency basis.
The regulations set forth procedures governing the licensure and practice of naturopathic medicine, including maintenance and disclosure of complaint records; fees and application procedures for a certificate of registration or license; licensing examinations; approval of naturopathic medical education programs and schools; enforcement and citation procedures; rules for conduct of practice, including advertising; and rules governing naturopathic corporations.