

Item: **2019 Legislation of Interest**

Item Summary: Following are three additional bills that have been identified as legislation of interest (as of 5/20/19), as well as an update on those bills for which the Board previously adopted positions.

- Item 3a
Board Action:
1. President asks for motion to adopt the staff recommended positions on the newly identified legislation of interest.
 2. President may request if there is a second to the motion, if not already made.
 3. Board member discussion/edits (if applicable).
 4. Inquire for public comment / Further Board discussion as applicable
 5. Repeat motion and vote:
 - 1) aye, in favor, 2) no, not in favor, or 3) abstainBoard members may choose to take alternate positions on each bill: Watch, Support, Support if amended, Oppose, or Oppose unless amended.

AB 613 (Low) - Staff Recommended Position: WATCH

Title: Professions and vocations: regulatory fees.

Status: Referred to Senate Business, Professions and Economic Development Committee on 5/8/19.

This bill would authorize each board with the Department of Consumer Affairs to increase their fees every 4 years in an amount not to exceed the increase in the Consumer Price Index in the last 4 years. Fees increased pursuant to this bill would be exempt from the Administrative Procedure Act.

SB 53 (Wilk) - Staff Recommended Position: OPPOSE UNLESS AMENDED

Title: Open meetings.

Status: In Assembly, held at desk.

This bill would revise the Bagley-Keene Open Meeting Act regarding state body-created advisory committees, by requiring two-member advisory committees to hold open and public comments if one or more of the advisory committee members is a member of the larger board, committee, or commission, and the advisory committee is supported either wholly or partially by state funds. The purpose of this bill is to make the Bagley-Keene Act mirror provisions of the Ralph M. Brown Act, which governs local governments' open meetings.

H.R. 2508 - Rep. Mike Thompson (CA) - Staff Recommended Position: SUPPORT

Title: BREATHE Act

Status: Introduced 5/2/19.

This legislation is a 3-year pilot that allows respiratory therapists to furnish disease management services, such as self-management education and training, demonstration/evaluation of proper inhaler techniques, smoking cessation and remote patient monitoring to Medicare beneficiaries with Chronic Obstructive Pulmonary Disease (COPD). Its purpose is to demonstrate the value RTs bring to the health care system and their patients through improved health outcomes and lower costs and to identify RTs as telehealth practitioners in the Medicare statute.

Note: This bill is co-sponsored by T. J. Cox, (CA), Mike Kelly (PA) and Buddy Carter (GA)

- Item 3b
Board Action:
1. President calls the agenda item and it is presented by or as directed by the President.
 2. For information purposes only. Discussion may ensue.

AB 193 (Patterson) - Board Position: Watch

Title: Professions and vocations.

Status: This is a two-year bill and dead for 2019.

This bill would require the Department of Consumer Affairs, beginning on January 1, 2021, to conduct a comprehensive review of all occupational licensing requirements and identify unnecessary licensing requirements that cannot be adequately justified. The bill would require the department to report to the Legislature on January 1, 2023, and every 2 years thereafter, on the department's progress, and would require the department to issue a final report to the Legislature no later than January 1, 2033. The bill would require the department to apply for federal funds that have been made available specifically for the purpose of reviewing, updating, and eliminating overly burdensome licensing requirements, as provided.

AB 241 (Kamlager-Dove) - Board Position: Watch

Title: Implicit bias: continuing education: requirements.

Status: Referred to Senate Rules Committee on 5/14/19.

Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Under the act, a physician and surgeon is required to demonstrate satisfaction of continuing education requirements, including cultural and linguistic competency in the practice of medicine, as specified.

This bill, by January 1, 2022, would require all continuing education courses for a physician and surgeon to contain curriculum that includes specified instruction in the understanding of implicit bias in medical treatment.

Existing law, the Nursing Practice Act, regulates the practice of nursing by the Board of Registered Nursing. The act requires persons licensed by the board to complete specified courses of instruction, including instruction regarding alcoholism and substance dependency and spousal abuse.

This bill would require the Board of Registered Nursing, by January 1, 2022, to adopt regulations requiring all continuing education courses for its licensees to contain curriculum that includes specified instruction in the understanding of implicit bias in treatment.

Existing law, the Physician Assistant Practice Act, authorizes the Physician Assistant Board to require a licensee to complete not more than 50 hours of continuing education every two years as a condition of license renewal.

This bill would require the Physician Assistant Board, by January 1, 2022, to adopt regulations requiring all continuing education courses for its licensees to contain curriculum that includes specified instruction in the understanding of implicit bias in treatment.

AB 476 (Blanca Rubio) - Board Position: Watch

Title: Department of Consumer Affairs: task force: foreign-trained professionals.

Status: Referred to Assembly 2nd Reading on 5/20/19.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law establishes the Bagley-Keene Open Meeting Act, which requires state boards, commissions, and similar state-created multi-member bodies to give public notice of meetings and conduct their meetings in public unless authorized to meet in closed session.

This bill, the California Opportunity Act of 2019, would require the Department of Consumer Affairs to create a task force, as specified, to study and write a report of its findings and recommendations regarding the licensing of foreign-trained professionals with the goal of integrating foreign-trained professionals into the state's workforce, as specified. The bill would authorize the task force to hold hearings and invite testimony from experts and the public to gather information. The bill would require the task force to submit the report to the Legislature no later than January 1, 2021, as specified.

The bill also would require the task force to meet at least once each calendar quarter, as specified, and to hold its meetings in accordance with the Bagley-Keene Open Meeting Act. The bill would require each member of the task force to receive per diem and reimbursement for expenses incurred, as specified, and would require the task force to solicit input from a variety of government agencies, stakeholders, and the public, including, among others, the Little Hoover Commission and the California Workforce Development Board.

AB 496 (Low) - Board Position: Watch

Title: Business and professions.

Status: Referred to Senate Rules Committee on 5/14/19.

Under existing law, the Department of Consumer Affairs, which is under the control of the director of the Director of Consumer Affairs, is comprised of various boards, as defined, that license and regulate various professions and vocations. With respect to the Department of Consumer Affairs, existing law

provides that the Governor has power to remove from office any member of any board appointed by the Governor for specified reasons, including incompetence.

This bill would instead provide that the appointing authority has power to remove a board member from office for those specified reasons.

Existing law authorizes the director to audit and review, upon the director's own initiative or upon the request of a consumer or licensee, inquiries and complaints regarding, among other things, dismissals of disciplinary cases of specified licensees and requires the director to report to the Chairpersons of the Senate Business and Professions Committee and the Assembly Health Committee annually regarding any findings from such an audit or review.

This bill would instead require the director to report to the Chairpersons of the Senate Business, Professions and Economic Development Committee and the Assembly Business and Professions Committee.

Existing law defines the term "licentiate" to mean any person authorized by a license, certificate, registration, or other means to engage in a business or profession regulated or referred to, as specified.

This bill would instead define "licensee" to mean any person authorized by a license, certificate, registration, or other means to engage in a business or profession regulated or referred to, as specified, and would provide that any reference to licentiate be deemed to refer to licensee.

This bill would make other conforming and nonsubstantive changes, including replacing gendered terms with nongendered terms, updating cross-references, and deleting obsolete provisions.

SB 181 (Chang) - Board Position: Watch

Title: Healing arts boards.

Status: In Senate, referred to Committee on Rules on 2/6/19.

Existing law creates various regulatory boards within the Department of Consumer Affairs. Existing law authorizes health-related boards to adopt regulations requiring licensees to display their licenses in the locality in which they are treating patients and to make specified disclosures to patients.

This bill would make nonsubstantive changes to that license display and disclosure provision.

SB 207 (Hurtado) - Board Position: Watch

Title: Medi-Cal: asthma preventive services.

Status: Senate Third Reading as of 5/16/19.

This bill would include asthma preventive services, as defined, as a covered benefit under the Medi-Cal program. The bill would require the department, in consultation with external stakeholders, to develop a coverage policy consistent with specified federal and clinically appropriate guidelines. The bill would require an entity or supervising licensed Medi-Cal provider and the Medi-Cal asthma services provider to satisfy specified requirements. The bill would authorize the department to implement, interpret, or make specific its provisions without taking regulatory action until regulations are adopted. The bill would require the department to adopt regulations by July 1, 2023, and to provide semiannual status reports to the Legislature until regulations have been adopted. The bill would require the department to seek any federal waivers or other state plan amendments as necessary, and would require these provisions to be implemented if federal approvals are obtained, as specified.

ASSEMBLY BILL

No. 613

Introduced by Assembly Member Low

February 14, 2019

An act to add Section 101.1 to the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 613, as introduced, Low. Professions and vocations: regulatory fees.

Existing law establishes the Department of Consumer Affairs, which is comprised of boards that are established for the purpose of regulating various professions and vocations, and generally authorizes a board to charge fees for the reasonable regulatory cost of administering the regulatory program for the profession or vocation. Existing law establishes the Professions and Vocations Fund in the State Treasury, which consists of specified special funds and accounts, some of which are continuously appropriated.

This bill would authorize each board within the department to increase every 4 years any fee authorized to be imposed by that board by an amount not to exceed the increase in the California Consumer Price Index for the preceding 4 years, subject to specified conditions. The bill would require the Director of Consumer Affairs to approve any fee increase proposed by a board except under specified circumstances. By authorizing an increase in the amount of fees deposited into a continuously appropriated fund, this bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 101.1 is added to the Business and
2 Professions Code, to read:

3 101.1. (a) Notwithstanding any other law, no more than once
4 every four years, any board listed in Section 101 may increase any
5 fee authorized to be imposed by that board by an amount not to
6 exceed the increase in the California Consumer Price Index, as
7 determined pursuant to Section 2212 of the Revenue and Taxation
8 Code, for the preceding four years in accordance with the
9 following:

10 (1) The board shall provide its calculations and proposed fee,
11 rounded to the nearest whole dollar, to the director and the director
12 shall approve the fee increase unless any of the following apply:

13 (A) The board has unencumbered funds in an amount that is
14 equal to more than the board’s operating budget for the next two
15 fiscal years.

16 (B) The fee would exceed the reasonable regulatory costs to the
17 board in administering the provisions for which the fee is
18 authorized.

19 (C) The director determines that the fee increase would be
20 injurious to the public health, safety, or welfare.

21 (2) The adjustment of fees and publication of the adjusted fee
22 list is not subject to the Administrative Procedure Act (Chapter
23 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
24 Title 2) of the Government Code.

25 (b) For purposes of this section, “fee” includes any fees
26 authorized to be imposed by a board for regulatory costs. “Fee”
27 does not include administrative fines, civil penalties, or criminal
28 penalties.

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AMENDED IN SENATE MARCH 5, 2019

SENATE BILL

No. 53

Introduced by Senator Wilk

~~(Coauthor: Assembly Member Lackey)~~

(Coauthors: Senators Bates, Glazer, Jones, and Portantino)

(Coauthors: Assembly Members Choi, Gallagher, Lackey, Mathis, and Patterson)

December 10, 2018

An act to amend Section 11121 of the Government Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 53, as amended, Wilk. Open meetings.

The Bagley-Keene Open Meeting Act requires that all meetings of a state body, as defined, be open and public and that all persons be permitted to attend and participate in a meeting of a state body, subject to certain conditions and exceptions.

This bill would specify that the definition of "state body" includes an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body that consists of 3 or more individuals, as prescribed, except a board, commission, committee, or similar multimember body on which a member of a body serves in ~~his or her~~ *their* official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11121 of the Government Code is
2 amended to read:

3 11121. As used in this article, “state body” means each of the
4 following:

5 (a) Every state board, or commission, or similar multimember
6 body of the state that is created by statute or required by law to
7 conduct official meetings and every commission created by
8 executive order.

9 (b) A board, commission, committee, or similar multimember
10 body that exercises any authority of a state body delegated to it by
11 that state body.

12 (c) An advisory board, advisory commission, advisory
13 committee, advisory subcommittee, or similar multimember
14 advisory body of a state body, if created by formal action of the
15 state body or of any member of the state body, and if the advisory
16 body so created consists of three or more persons, except as
17 provided in subdivision (d).

18 (d) A board, commission, committee, or similar multimember
19 body on which a member of a body that is a state body pursuant
20 to this section serves in ~~his or her~~ *their* official capacity as a
21 representative of that state body and that is supported, in whole or
22 in part, by funds provided by the state body, whether the
23 multimember body is organized and operated by the state body or
24 by a private corporation.

25 (e) Notwithstanding subdivision (a) of Section 11121.1, the
26 State Bar of California, as described in Section 6001 of the
27 Business and Professions Code. This subdivision shall become
28 operative on April 1, 2016.

29 SEC. 2. This act is an urgency statute necessary for the
30 immediate preservation of the public peace, health, or safety within
31 the meaning of Article IV of the California Constitution and shall
32 go into immediate effect. The facts constituting the necessity are:

1 In order to avoid unnecessary litigation and ensure the people's
2 right to access the meetings of public bodies pursuant to Section
3 3 of Article 1 of the California Constitution, it is necessary that
4 this act take effect immediately.

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116TH CONGRESS
1ST SESSION

H. R. 2508

To provide for a pilot program to include respiratory therapists as telehealth practitioners under the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2019

Mr. THOMPSON of California (for himself, Mr. COX of California, Mr. CARTER of Georgia, and Mr. KELLY of Pennsylvania) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for a pilot program to include respiratory therapists as telehealth practitioners under the Medicare program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Better Respiration
5 through Expanding Access to Tele-Health Act” or the
6 “BREATHE Act”.

1 **SEC. 2. PILOT PROGRAM FOR INCLUDING RESPIRATORY**
2 **THERAPISTS AS TELEHEALTH PRACTI-**
3 **TIONERS UNDER THE MEDICARE PROGRAM.**

4 (a) **IN GENERAL.**—Beginning not later than 6
5 months after the date of the enactment of this Act, the
6 Secretary of Health and Human Services shall establish
7 a 3-year pilot program under title XVIII of the Social Se-
8 curity Act with respect to furnishing telehealth disease
9 management services to eligible telehealth individuals who
10 are diagnosed with chronic obstructive pulmonary disease
11 for purposes of determining the value of including quali-
12 fying respiratory therapists as telehealth practitioners
13 under the Medicare program to improve health outcomes
14 for, reduce unnecessary emergency department visits and
15 hospital admissions and readmissions of, and lower the
16 cost of care provided to such individuals.

17 (b) **TELEHEALTH ACCESS.**—Under the pilot pro-
18 gram, coverage shall be provided under title XVIII of the
19 Social Security Act for telehealth disease management
20 services furnished to eligible telehealth individuals who are
21 diagnosed with chronic obstructive pulmonary disease by
22 applying section 1834(m) of such Act (42 U.S.C.
23 1395m(m)), as if—

24 (1) the reference in paragraph (1) of such sec-
25 tion to “a practitioner (as described in section

1 1842(b)(18)(C))” were a reference to “a practitioner
2 (as defined in paragraph (4)(E))”;

3 (2) paragraph (2)(B) of such section does not
4 apply to any site that satisfies the definition of the
5 term “originating site” applied pursuant to para-
6 graph (3) and that would not otherwise be included
7 as an originating site without application of such
8 paragraph;

9 (3) the definition under paragraph (4)(C) of
10 such section for the term “originating site” included
11 as a site described in clause (ii) of such paragraph
12 the place of residence of such individual, regardless
13 of whether such place of residence satisfies the con-
14 ditions described in subclause (I), (II), or (III) of
15 clause (i) of such paragraph;

16 (4) the definition in paragraph (4)(E) of such
17 section for the term “practitioner” included quali-
18 fying respiratory therapists; and

19 (5) the definition in paragraph (4)(F) of such
20 section for “telehealth services” included the fol-
21 lowing HCPCS codes 98960, 94664, 99406, 99407,
22 and 99091.

23 (c) PAYMENT MODIFIER.—For purposes of the pilot
24 program, the Secretary shall establish a payment modifier
25 to ensure the collection of data relevant to telehealth dis-

1 ease management services furnished directly by a quali-
2 fying respiratory therapist to eligible telehealth individuals
3 who are diagnosed with chronic obstructive pulmonary dis-
4 ease.

5 (d) REPORT.—Not later than one year after the last
6 date of the pilot program, the Secretary of Health and
7 Human Services shall submit to Congress a report on the
8 findings of the program, including if acute care interven-
9 tions were reduced and the health status of eligible tele-
10 health individuals who are diagnosed with chronic obstruc-
11 tive pulmonary disease was improved based on the lower
12 utilization of services.

13 (e) DEFINITIONS.—For purposes of this section:

14 (1) The term “eligible telehealth individual” has
15 the meaning given such term in section 1834(m)(4)
16 of the Social Security Act (42 U.S.C. 1395m(m)(4)).

17 (2) The term “qualifying respiratory therapist”
18 means a respiratory therapist who—

19 (A) is credentialed by a national
20 credentialing board recognized by the Secretary
21 of Health and Human Services;

22 (B) if applicable, is licensed in the State in
23 which the therapist furnishes the services in-
24 volved;

1 (C) holds the credential of Registered Res-
2 piratory Therapist; and

3 (D) has a minimum of a bachelor's degree
4 or other advanced degree in biological or health
5 science.

6 (3) The term “telehealth disease management
7 services” means any of the following disease man-
8 agement services furnished via a telecommunications
9 system by a qualifying respiratory therapist:

10 (A) Self-management education and train-
11 ing.

12 (B) Demonstration and evaluation of in-
13 haler techniques.

14 (C) Smoking cessation counseling.

15 (D) Remote patient monitoring.

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