

ASSEMBLY BILL

No. 487

Introduced by Assembly Member Aroner

February 21, 2001

An act to amend Section 2234 of the Business and Professions Code, relating to medical practice.

LEGISLATIVE COUNSEL'S DIGEST

AB 487, as introduced, Aroner. Medical professionals: conduct.

Existing law, the Medical Practices Act, provides for the licensure and regulation of the practices of medicine and podiatric medicine by the Medical Board of California. Existing law requires any person who practices medicine or podiatric medicine to obtain a license from the Division of Licensing of the Medical Board of California, and requires the Division of Medical Quality of the board to take action against any licensee charged with unprofessional conduct.

This bill would make it unprofessional conduct for a licensee to fail to adequately prescribe, order, administer, or dispense controlled substances for purposes of pain management. The bill would require the board to investigate any complaint under the bill and, upon a finding of undermedication or failure to adequately treat pain, to order a physician to undergo certified remedial education within 180 days of the board's finding. Because a violation of the provisions of the bill relating to unprofessional conduct would be a misdemeanor, the bill would impose a state-mandated local program by creating new crimes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 2234 of the Business and Professions
2 Code is amended to read:
3 2234. The Division of Medical Quality shall take action
4 against any licensee who is charged with unprofessional conduct.
5 In addition to other provisions of this article, unprofessional
6 conduct includes, but is not limited to, the following:
7 (a) Violating or attempting to violate, directly or indirectly, or
8 assisting in or abetting the violation of, or conspiring to violate,
9 any provision of this chapter.
10 (b) Gross negligence.
11 (c) Repeated negligent acts.
12 (d) Incompetence.
13 (e) The commission of any act involving dishonesty or
14 corruption ~~which~~ that is substantially related to the qualifications,
15 functions, or duties of a physician and surgeon.
16 (f) Any action or conduct ~~which~~ that would have warranted the
17 denial of a certificate.
18 (g) The practice of medicine from this state into another state
19 or country without meeting the legal requirements of that state or
20 country for the practice of medicine. Section 2314 shall not apply
21 to this subdivision. This subdivision shall become operative upon
22 the implementation of the proposed registration program
23 described in Section 2052.5.
24 (h) *A failure to adequately prescribe, order, administer, or*
25 *dispense controlled substances, including opioid analgesics, for*
26 *the relief or modulation of pain in accordance with accepted*
27 *knowledge as described in appropriate clinical and public health*
28 *care protocols for pain treatment and as set forth in the*
29 *appropriate sections of the Health and Safety Code.*
30 *The Medical Board of California shall investigate any*
31 *complaint under this subdivision and upon a finding of*
32 *undermedication or a failure to adequately treat pain, the board*
33 *shall order a physician subject to the finding to undergo remedial*



1 *education certified by a professional association specializing in*
2 *medical pain management.*

3 *The physician subject to the remedial education requirement*
4 *shall, within 180 days of the board's finding, provide the*
5 *physician's certification to the board that the remedial education*
6 *was completed in compliance with this subdivision.*

7 SEC. 2. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.

