

AMENDED IN ASSEMBLY MARCH 27, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 487

Introduced by Assembly Member Aroner

February 21, 2001

An act to ~~amend Section 2234 of~~ *add Section 2241.7* to the Business and Professions Code, relating to medical practice.

LEGISLATIVE COUNSEL'S DIGEST

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

Existing law, the Medical ~~Practices~~ *Practice* 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~~ *require the division to investigate, upon its receipt of a complaint, a physician and surgeon who fails 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 division, upon a finding of undermedication or failure to adequately treat pain, to order a the physician and surgeon to undergo certified remedial education complete a pain management education program, as specified, 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 that is substantially related to the qualifications,~~
15 ~~functions, or duties of a physician and surgeon.~~
16 ~~(f) Any action or conduct that would have warranted the denial~~
17 ~~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~~



1 care protocols for pain treatment and as set forth in the appropriate
2 sections of the Health and Safety Code.

3 ~~The Medical Board of California shall investigate any~~
4 ~~complaint under this subdivision and upon a finding of~~
5 ~~undermedication or a failure to adequately treat pain, the board~~
6 ~~shall order a physician subject to the finding to undergo remedial~~
7 ~~education certified by a professional association specializing in~~
8 ~~medical pain management.~~

9 ~~The physician subject to the remedial education requirement~~
10 ~~shall, within 180 days of the board's finding, provide the~~
11 ~~physician's certification to the board that the remedial education~~
12 ~~was completed in compliance with this subdivision.~~

13 *SECTION 1. Section 2241.7 is added to the Business and*
14 *Professions Code, to read:*

15 *2241.7. (a) The Division of Medical Quality shall*
16 *investigate, upon its receipt of a complaint, a physician and*
17 *surgeon who fails to adequately prescribe, order, administer, or*
18 *dispense controlled substances, including opioid analgesics, for*
19 *the relief or modulation of pain. The division shall review the*
20 *complaint in accordance with current, authoritative clinical*
21 *practice guidelines issued by professional medical societies,*
22 *including, but not limited to, the Agency for Healthcare Policy and*
23 *Research, the American Academy of Pain Medicine, and other*
24 *professional medical associations that the division may adopt or*
25 *incorporate by reference in its guidelines and policy statements.*

26 *(b) Upon a finding of undermedication or a failure to*
27 *adequately treat pain according to authoritative clinical practice*
28 *guidelines, the division shall, at a minimum, order the physician*
29 *and surgeon to complete a mandatory continuing education*
30 *program on pain management that is provided by an approved*
31 *education provider and is based on current, authoritative clinical*
32 *practice guidelines for the appropriate treatment of pain. The*
33 *physician and surgeon shall complete this program within 180*
34 *days of the division's final decision. The physician and surgeon*
35 *shall submit to the division certification from the provider that the*
36 *mandatory continuing education program complies with the*
37 *provisions of this section.*

38 *SEC. 2. No reimbursement is required by this act pursuant to*
39 *Section 6 of Article XIII B of the California Constitution because*
40 *the only costs that may be incurred by a local agency or school*



1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

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