

AMENDED IN SENATE JUNE 25, 2014

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AMENDED IN ASSEMBLY APRIL 10, 2013

AMENDED IN ASSEMBLY APRIL 2, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 496

Introduced by Assembly Member Gordon
(Coauthors: Assembly Members Ammiano and Atkins)
(Coauthors: Senators Lara and Leno)

February 20, 2013

An act to amend ~~Sections 852, 2198, and 2198.1~~ *Section 2190.1* of the Business and Professions Code, relating to medicine.

LEGISLATIVE COUNSEL'S DIGEST

AB 496, as amended, Gordon. Medicine: *continuing medical education*: sexual orientation, gender identity, and gender expression.

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. Existing law requires all continuing medical education courses on or after July 1, 2006, to contain curriculum that includes cultural and linguistic competency, as defined, in the practice of medicine. Existing law requires accrediting associations to develop standards for compliance with the cultural competency requirement before July 1, 2006, and authorizes the development of these standards in conjunction with an

advisory group that has expertise in cultural and linguistic competency issues, as specified.

This bill would authorize the accrediting associations to update these compliance standards, as needed, in conjunction with the advisory group described above.

Existing law, for purposes of these provisions, defines cultural competency as a set of integrated attitudes, knowledge, and skills that enables a health care professional or organization to care effectively for patients from diverse cultures, groups, and communities. Existing law recommends that this definition, at a minimum, include, among other things, understanding and applying cultural and ethnic data to the process of clinical care.

This bill would expand this recommendation to include, as appropriate, information pertinent to the appropriate treatment of, and provision of care to, the lesbian, gay, bisexual, transgender, and intersex communities.

~~Existing law creates the Task Force on Culturally and Linguistically Competent Physicians and Dentists. Existing law requires the Director of Health Care Services and the Director of Consumer Affairs to serve as cochairs of the task force. Existing law requires that the task force consist of, among other people, the Executive Director of the Medical Board of California and the Executive Director of the Dental Board of California. Existing law additionally requires the Director of Consumer Affairs, in consultation with the Director of Health Care Services, to appoint as task force members, among other people, California licensed physicians and dentists who provide health services to members of language and ethnic minority groups and representatives of organizations that advocate on behalf of, or provide health services to, members of language and ethnic minority groups. Existing law required the task force to report its findings to the Legislature and appropriate licensing boards by January 1, 2003.~~

~~This bill would replace the Director of Health Care Services with the Deputy Director of the Office of Health Equity, or his or her designee, as cochair of the task force. The bill would also instead require the appointment of members to be made in consultation with the Office of Health Equity. The bill would authorize a designee of the Director of Consumer Affairs to serve as cochair of the task force and would authorize designees of the Executive Director of the Medical Board of California and the Executive Director of the Dental Board of California to serve as task force members. The bill would require the licensed task~~

~~force members and advocate task force members to be providers of health services to, or advocates on behalf of, members of language and ethnic minority groups as well as lesbian, gay, bisexual, transgender, and intersex groups. The bill would require the task force to report its findings to the Legislature and appropriate licensing boards by January 1, 2016.~~

~~Existing law, the Cultural and Linguistic Competency of Physicians Act of 2003, establishes the cultural and linguistic physician competency program which is operated by local medical societies of the California Medical Association and is monitored by the Medical Board of California. That voluntary program consists of educational classes for all interested physicians and is designed to teach foreign language and cultural beliefs and practices that may impact patient health care practices and allow physicians to incorporate this knowledge in the diagnosis and treatment of patients who are not from the predominate culture in California.~~

~~This bill would additionally require the program to address lesbian, gay, bisexual, transgender, and intersex groups of interest to local medical societies. The bill would require the training programs to be formulated in collaboration with California-based lesbian, gay, bisexual, transgender, and intersex medical societies.~~

~~Existing law requires local medical societies to develop and distribute a survey for language minority patients to measure the degree of satisfaction with physicians who have taken the educational classes on cultural and linguistic competency described above.~~

~~This bill would also require local medical societies to develop and distribute a similar survey to lesbian, gay, bisexual, transgender, and intersex patients.~~

~~Existing law also defines “cultural and linguistic competency” for the purposes of those provisions as meaning cultural and linguistic abilities that can be incorporated into therapeutic and medical evaluation and treatment, including understanding and applying the roles that culture, ethnicity, and race play in diagnosis, treatment, and clinical care, and awareness of how the attitudes, values, and beliefs of health care providers and patients influence and impact professional and patient relations.~~

~~This bill would redefine the term “cultural and linguistic competency” to also include understanding and applying the roles that sexual orientation, gender identity, and gender expression play in diagnosis, treatment, and clinical care, and developing behaviors that increase a~~

patient's satisfaction with, and trust in, his or her physicians and health care institutions. The bill would also make related technical, nonsubstantive changes.

Vote: majority. 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 2190.1 of the Business and Professions
2 Code is amended to read:

3 2190.1. (a) The continuing medical education standards of
4 Section 2190 may be met by educational activities that meet the
5 standards of the Division of Licensing and *that* serve to maintain,
6 develop, or increase the knowledge, skills, and professional
7 performance that a physician and surgeon uses to provide care, or
8 to improve the quality of care provided for patients, ~~including, to~~
9 *patients. These may include, but are not limited to,* educational
10 activities that meet any of the following criteria:

11 (1) Have a scientific or clinical content with a direct bearing on
12 the quality or cost-effective provision of patient care, community
13 or public health, or preventive medicine.

14 (2) Concern quality assurance or improvement, risk
15 management, health facility standards, or the legal aspects of
16 clinical medicine.

17 (3) Concern bioethics or professional ethics.

18 (4) Are designed to improve the physician-patient relationship.

19 (b) (1) On and after July 1, 2006, all continuing medical
20 education courses shall contain curriculum that includes cultural
21 and linguistic competency in the practice of medicine.

22 (2) Notwithstanding the provisions of paragraph (1), a
23 continuing medical education course dedicated solely to research
24 or other issues that does not include a direct patient care component
25 ~~and or~~ a course offered by a continuing medical education provider
26 that is not located in this state ~~are~~ *is* not required to contain
27 curriculum that includes cultural and linguistic competency in the
28 practice of medicine.

29 (3) Associations that accredit continuing medical education
30 courses shall develop standards before July 1, 2006, for compliance
31 with the requirements of paragraph (1). The associations may
32 ~~develop~~ *update* these ~~standards~~ *standards, as needed,* in

1 conjunction with an advisory group that has expertise in cultural
2 and linguistic competency issues.

3 (4) A physician and surgeon who completes a continuing
4 education course meeting the standards developed pursuant to
5 paragraph (3) satisfies the continuing education requirement for
6 cultural and linguistic competency.

7 (c) In order to satisfy the requirements of subdivision (b),
8 continuing medical education courses shall address at least one or
9 a combination of the following:

10 (1) Cultural competency. For the purposes of this section,
11 “cultural competency” means a set of integrated attitudes,
12 knowledge, and skills that enables a health care professional or
13 organization to care effectively for patients from diverse cultures,
14 groups, and communities. At a minimum, cultural competency is
15 recommended to include the following:

16 (A) Applying linguistic skills to communicate effectively with
17 the target population.

18 (B) Utilizing cultural information to establish therapeutic
19 relationships.

20 (C) Eliciting and incorporating pertinent cultural data in
21 diagnosis and treatment.

22 (D) Understanding and applying cultural and ethnic data to the
23 process of clinical ~~care~~ *care, including, as appropriate, information*
24 *pertinent to the appropriate treatment of, and provision of care*
25 *to, the lesbian, gay, bisexual, transgender, and intersex*
26 *communities.*

27 (2) Linguistic competency. For the purposes of this section,
28 “linguistic competency” means the ability of a physician and
29 surgeon to provide patients who do not speak English or who have
30 limited ability to speak English, direct communication in the
31 patient’s primary language.

32 (3) A review and explanation of relevant federal and state laws
33 and regulations regarding linguistic access, including, but not
34 limited to, the federal Civil Rights Act (42 U.S.C. Sec. 1981, et
35 seq.), Executive Order 13166 of August 11, 2000, of the President
36 of the United States, and the Dymally-Alatorre Bilingual Services
37 Act (Chapter 17.5 (commencing with Section 7290) of Division
38 7 of Title 1 of the Government Code).

39 (d) Notwithstanding subdivision (a), educational activities that
40 are not directed toward the practice of medicine, or are directed

1 primarily toward the business aspects of medical practice,
2 including, but not limited to, medical office management, billing
3 and coding, and marketing shall not be deemed to meet the
4 continuing medical education standards for licensed physicians
5 and surgeons.

6 (e) Educational activities that meet the content standards set
7 forth in this section and are accredited by the California Medical
8 Association or the Accreditation Council for Continuing Medical
9 Education may be deemed by the Division of Licensing to meet
10 its continuing medical education standards.

11 ~~SECTION 1. Section 852 of the Business and Professions Code~~
12 ~~is amended to read:~~

13 ~~852. (a) The Task Force on Culturally and Linguistically~~
14 ~~Competent Physicians and Dentists is hereby created and shall~~
15 ~~consist of the following members:~~

16 ~~(1) The Deputy Director of the Office of Health Equity, or his~~
17 ~~or her designee, and the Director of Consumer Affairs, or his or~~
18 ~~her designee, who shall serve as cochairs of the task force.~~

19 ~~(2) The Executive Director of the Medical Board of California,~~
20 ~~or his or her designee.~~

21 ~~(3) The Executive Director of the Dental Board of California,~~
22 ~~or his or her designee.~~

23 ~~(4) One member appointed by the Senate Committee on Rules.~~

24 ~~(5) One member appointed by the Speaker of the Assembly.~~

25 ~~(b) Additional task force members shall be appointed by the~~
26 ~~Director of Consumer Affairs, in consultation with the Office of~~
27 ~~Health Equity, as follows:~~

28 ~~(1) Representatives of organizations that advocate on behalf of~~
29 ~~California licensed physicians and dentists.~~

30 ~~(2) California licensed physicians and dentists who provide~~
31 ~~health services to members of language and ethnic minority groups,~~
32 ~~as well as lesbian, gay, bisexual, transgender, and intersex groups.~~

33 ~~(3) Representatives of organizations that advocate on behalf of,~~
34 ~~or provide health services to, members of language and ethnic~~
35 ~~minority groups, as well as lesbian, gay, bisexual, transgender,~~
36 ~~and intersex groups.~~

37 ~~(4) Representatives of entities that offer continuing education~~
38 ~~for physicians and dentists.~~

39 ~~(5) Representatives of California's medical and dental schools.~~

1 ~~(6) Individuals with experience in developing, implementing,~~
2 ~~monitoring, and evaluating cultural and linguistic programs.~~

3 ~~(e) The duties of the task force shall include the following:~~

4 ~~(1) Developing recommendations for a continuing education~~
5 ~~program that includes language proficiency standards of foreign~~
6 ~~language to be acquired to meet linguistic competency.~~

7 ~~(2) Identifying the key cultural elements necessary to meet~~
8 ~~cultural competency by physicians, dentists, and their offices.~~

9 ~~(3) Assessing the need for voluntary certification standards and~~
10 ~~examinations for cultural and linguistic competency.~~

11 ~~(d) The task force shall hold hearings and convene meetings to~~
12 ~~obtain input from persons belonging to language and ethnic~~
13 ~~minority groups, as well as lesbian, gay, bisexual, transgender,~~
14 ~~and intersex groups, to determine their needs and preferences for~~
15 ~~having culturally competent medical providers. These hearings~~
16 ~~and meetings shall be convened in communities that have large~~
17 ~~populations of language and ethnic minority groups, as well as~~
18 ~~lesbian, gay, bisexual, transgender, and intersex groups.~~

19 ~~(e) The task force shall report its findings to the Legislature and~~
20 ~~appropriate licensing boards on or before January 1, 2016.~~

21 ~~(f) The Medical Board of California and the Dental Board of~~
22 ~~California shall pay the state administrative costs of implementing~~
23 ~~this section.~~

24 ~~(g) Nothing in this section shall be construed to require~~
25 ~~mandatory continuing education of physicians and dentists.~~

26 ~~SEC. 2.— Section 2198 of the Business and Professions Code is~~
27 ~~amended to read:~~

28 ~~2198. (a) This article shall be known and may be cited as the~~
29 ~~Cultural and Linguistic Competency of Physicians Act of 2003.~~
30 ~~The cultural and linguistic physician competency program is hereby~~
31 ~~established and shall be operated by local medical societies of the~~
32 ~~California Medical Association and shall be monitored by the~~
33 ~~Medical Board of California.~~

34 ~~(b) This program shall be a voluntary program for all interested~~
35 ~~physicians. As a primary objective, the program shall consist of~~
36 ~~educational classes which shall be designed to teach physicians~~
37 ~~the following:~~

38 ~~(1) A foreign language at the level of proficiency that initially~~
39 ~~improves their ability to communicate with non-English speaking~~
40 ~~patients.~~

1 ~~(2) A foreign language at the level of proficiency that eventually~~
2 ~~enables direct communication with the non-English speaking~~
3 ~~patients.~~

4 ~~(3) Cultural beliefs and practices that may impact patient health~~
5 ~~care practices and allow physicians to incorporate this knowledge~~
6 ~~in the diagnosis and treatment of patients who are not from the~~
7 ~~predominate culture in California.~~

8 ~~(e) The program shall operate through local medical societies~~
9 ~~and shall be developed to address the ethnic language minority~~
10 ~~groups, as well as lesbian, gay, bisexual, transgender, and intersex~~
11 ~~groups, of interest to local medical societies.~~

12 ~~(d) In dealing with Spanish language and cultural practices of~~
13 ~~Mexican immigrant communities, the cultural and linguistic~~
14 ~~training program shall be developed with direct input from~~
15 ~~physician groups in Mexico who serve the same immigrant~~
16 ~~population in Mexico. A similar approach may be used for any of~~
17 ~~the languages and cultures that are taught by the program or~~
18 ~~appropriate ethnic medical societies may be consulted for the~~
19 ~~development of these programs.~~

20 ~~(e) Training programs shall be based and developed on the~~
21 ~~established knowledge of providers already serving target~~
22 ~~populations and shall be formulated in collaboration with the~~
23 ~~California Medical Association, the Medical Board of California,~~
24 ~~and other California-based ethnic medical societies, as well as~~
25 ~~lesbian, gay, bisexual, transgender, and intersex medical societies.~~

26 ~~(f) Programs shall include standards that identify the degree of~~
27 ~~competency for participants who successfully complete~~
28 ~~independent parts of the course of instruction.~~

29 ~~(g) Programs shall seek accreditation by the Accreditation~~
30 ~~Council for Continuing Medical Education.~~

31 ~~(h) The Medical Board of California shall convene a workgroup~~
32 ~~including, but not limited to, representatives of affected patient~~
33 ~~populations, medical societies engaged in program delivery, and~~
34 ~~community clinics to perform the following functions:~~

35 ~~(1) Evaluation of the progress made in the achievement of the~~
36 ~~intent of this article.~~

37 ~~(2) Determination of the means by which achievement of the~~
38 ~~intent of this article can be enhanced.~~

39 ~~(3) Evaluation of the reasonableness and the consistency of the~~
40 ~~standards developed by those entities delivering the program.~~

1 ~~(4) Determination and recommendation of the credit to be given~~
2 ~~to participants who successfully complete the identified programs.~~
3 ~~Factors to be considered in this determination shall include, at a~~
4 ~~minimum, compliance with requirements for continuing medical~~
5 ~~education and eligibility for increased rates of reimbursement~~
6 ~~under Medi-Cal, the Healthy Families Program, and health~~
7 ~~maintenance organization contracts.~~

8 ~~(i) Funding shall be provided by fees charged to physicians who~~
9 ~~elect to take these educational classes and any other funds that~~
10 ~~local medical societies may secure for this purpose.~~

11 ~~(j) (1) Local medical societies shall develop and distribute a~~
12 ~~survey for both of the following groups of individuals to measure~~
13 ~~the degree of satisfaction with physicians who have taken the~~
14 ~~educational classes on cultural and linguistic competency provided~~
15 ~~pursuant to this section:~~

16 ~~(A) Language minority patients.~~

17 ~~(B) Lesbian, gay, bisexual, transgender, and intersex patients.~~

18 ~~(2) Local medical societies shall also develop an evaluation~~
19 ~~survey for physicians to assess the quality of education or training~~
20 ~~programs on cultural and linguistic competency provided pursuant~~
21 ~~to this section.~~

22 ~~(3) The information provided by these surveys shall be shared~~
23 ~~with the workgroup established by the Medical Board of California~~
24 ~~pursuant to subdivision (h).~~

25 ~~SEC. 3. Section 2198.1 of the Business and Professions Code~~
26 ~~is amended to read:~~

27 ~~2198.1. For purposes of this article, “cultural and linguistic~~
28 ~~competency” means cultural and linguistic abilities that can be~~
29 ~~incorporated into therapeutic and medical evaluation and treatment,~~
30 ~~including, but not limited to, the following:~~

31 ~~(a) Direct communication in the patient-client primary language.~~

32 ~~(b) Understanding and applying the roles that culture, ethnicity,~~
33 ~~race, sexual orientation, gender identity, and gender expression~~
34 ~~play in diagnosis, treatment, and clinical care.~~

35 ~~(c) Awareness of how the attitudes, values, and beliefs of health~~
36 ~~care providers, patients, and society influence and impact~~
37 ~~professional and patient relations.~~

38 ~~(d) Developing behaviors that increase a patient’s satisfaction~~
39 ~~with, and trust in, his or her physicians and health care institutions.~~

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