

AMENDED IN SENATE JUNE 26, 2014

AMENDED IN SENATE JUNE 16, 2014

AMENDED IN ASSEMBLY MAY 28, 2014

AMENDED IN ASSEMBLY APRIL 22, 2014

AMENDED IN ASSEMBLY APRIL 2, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1886

Introduced by Assembly Member Eggman

February 19, 2014

An act to amend Section 2233 of, and to repeal and add Section 2027 of, the Business and Professions Code, relating to physicians and surgeons.

LEGISLATIVE COUNSEL'S DIGEST

AB 1886, as amended, Eggman. Medical Board of California.

Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law requires the board to post certain information on the Internet indefinitely regarding licensed physicians and surgeons and requires specified information, including any malpractice judgements, arbitration awards, and settlement information, to be posted for a period of 10 years.

This bill would revise and recast these provisions, and would, among other things, require specified information regarding all current and former licensed physicians and surgeons, including enforcement actions, disciplinary actions, civil judgments, arbitration awards, and certain

misdemeanor convictions, to be posted indefinitely on the board’s Internet Web site. This bill would also reduce the period that settlement information is required to be posted on the Internet Web site from 10 years to 5 years. This bill would require that public letters of reprimand issued within the past 10 years by the board or the board of another jurisdiction be posted on the board’s Internet Web site.

Existing law authorizes the board, by stipulation or settlement with the affected physician and surgeon, to issue a public letter of reprimand after it has conducted an investigation or inspection as specified, rather than filing or prosecuting a formal accusation.

Existing law requires the board to disclose information regarding any enforcement actions taken against a licensee, including, among other things, public letters of reprimand issued, to an inquiring member of the public, as specified.

This bill would make a clarifying and conforming change regarding the disclosure of public letters of reprimand to an inquiring member of the public by deleting a conflicting provision that authorizes, rather than requires, the board to disclose those public letters of reprimand.

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 2027 of the Business and Professions
- 2 Code is repealed.
- 3 SEC. 2. Section 2027 is added to the Business and Professions
- 4 Code, to read:
- 5 2027. (a) The board shall post on its Internet Web site the
- 6 following information on the current status of the license for all
- 7 current and former licensees:
- 8 (1) Whether or not the licensee is presently in good standing.
- 9 (2) Current American Board of Medical Specialties certification
- 10 or board equivalent as certified by the board.
- 11 (3) Any of the following enforcement actions or proceedings
- 12 to which the licensee is actively subjected:
- 13 (A) Temporary restraining orders.
- 14 (B) Interim suspension orders.
- 15 (C) Revocations, suspensions, probations, or limitations on
- 16 practice ordered by the board or the board of another state or

1 jurisdiction, including those made part of a probationary order or
2 stipulated agreement.

3 (D) Current accusations filed by the Attorney General, including
4 those accusations that are on appeal. For purposes of this paragraph,
5 “current accusation” means an accusation that has not been
6 dismissed, withdrawn, or settled, and has not been finally decided
7 upon by an administrative law judge and the board unless an appeal
8 of that decision is pending.

9 (E) Citations issued that have not been resolved or appealed
10 within 30 days.

11 (b) The board shall post on its Internet Web site all of the
12 following historical information in its possession, custody, or
13 control regarding all current and former licensees:

14 (1) Approved postgraduate training.

15 (2) Any final revocations and suspensions, or other equivalent
16 actions, taken against the licensee by the board or the board of
17 another state or jurisdiction or the surrender of a license by the
18 licensee in relation to a disciplinary action or investigation,
19 including the operative accusation resulting in the license surrender
20 or discipline by the board.

21 (3) Probation or other equivalent action ordered by the board,
22 or the board of another state or jurisdiction, completed or
23 terminated, including the operative accusation resulting in the
24 discipline by the board.

25 (4) Any felony convictions. Upon receipt of a certified copy of
26 an expungement order granted pursuant to Section 1203.4 of the
27 Penal Code from a licensee, the board shall, within six months of
28 receipt of the expungement order, post notification of the
29 expungement order and the date thereof on its Internet Web site.

30 (5) Misdemeanor convictions resulting in a disciplinary action
31 or accusation that is not subsequently withdrawn or dismissed.
32 Upon receipt of a certified copy of an expungement order granted
33 pursuant to Section 1203.4 of the Penal Code from a licensee, the
34 board shall, within six months of receipt of the expungement order,
35 post notification of the expungement order and the date thereof on
36 its Internet Web site.

37 (6) Civil judgments issued in any amount, whether or not
38 vacated by a settlement after entry of the judgment, that were not
39 reversed on appeal, and arbitration awards issued in any amount,
40 for a claim or action for damages for death or personal injury

1 caused by the physician and surgeon's negligence, error, or
2 omission in practice, or by his or her rendering of unauthorized
3 professional services.

4 (7) Except as provided in subparagraphs (A) and (B), a summary
5 of any final hospital disciplinary actions that resulted in the
6 termination or revocation of a licensee's hospital staff privileges
7 for a medical disciplinary cause or reason. The posting shall
8 provide any additional explanatory or exculpatory information
9 submitted by the licensee pursuant to subdivision (f) of Section
10 805. The board shall also post on its Internet Web site a factsheet
11 that explains and provides information on the reporting
12 requirements under Section 805.

13 (A) If a licensee's hospital staff privileges are restored and the
14 licensee notifies the board of the restoration, the information
15 pertaining to the termination or revocation of those privileges shall
16 remain posted on the Internet Web site for a period of 10 years
17 from the restoration date of the privileges, and at the end of that
18 period shall be removed.

19 (B) If a court finds, in a final judgment, that peer review
20 resulting in a hospital disciplinary action was conducted in bad
21 faith and the licensee notifies the board of that finding, the
22 information concerning that hospital disciplinary action posted on
23 the Internet Web site shall be immediately removed. For purposes
24 of this subparagraph, "peer review" has the same meaning as
25 defined in Section 805.

26 (8) Public letters of reprimand issued within the past 10 years
27 by the board or the board of another state or jurisdiction, including
28 the operative accusation, if any, resulting in discipline by the board.

29 (9) Citations issued within the last three years that have been
30 resolved by payment of the administrative fine or compliance with
31 the order of abatement.

32 (10) All settlements within the last five years in the possession,
33 custody, or control of the board shall be disclosed for a licensee
34 in the low-risk category if there are three or more settlements for
35 that licensee within the last five years, and for a licensee in the
36 high-risk category if there are four or more settlements for that
37 licensee within the last five years. Classification of a licensee in
38 either a "high-risk category" or a "low-risk" category depends
39 upon the specialty or subspecialty practiced by the licensee and

1 the designation assigned to that specialty or subspecialty by the
2 board pursuant to subdivision (f) of Section 803.1.

3 (A) For the purposes of this paragraph, “settlement” means a
4 settlement in an amount of thirty thousand dollars (\$30,000) or
5 more of any claim or action for damages for death or personal
6 injury caused by the physician and surgeon’s negligence, error, or
7 omission in practice, or by his or her rendering of unauthorized
8 professional services.

9 (B) For the purposes of this paragraph, “settlement” does not
10 include a settlement by a licensee, regardless of the amount paid,
11 when (i) the settlement is made as a part of the settlement of a
12 class claim, (ii) the amount paid in settlement of the class claim
13 is the same amount paid by the other licensees in the same class
14 or similarly situated licensees in the same class, and (iii) the
15 settlement was paid in the context of a case for which the complaint
16 that alleged class liability on behalf of the licensee also alleged a
17 products liability class action cause of action.

18 (C) The board shall not disclose the actual dollar amount of a
19 settlement, but shall disclose settlement information in the same
20 manner and with the same disclosures required under subparagraph
21 (B) of paragraph (2) of subdivision (b) of Section 803.1.

22 (11) Appropriate disclaimers and explanatory statements to
23 accompany the information described in paragraphs (1) to (10),
24 inclusive, including an explanation of what types of information
25 are not disclosed. These disclaimers and statements shall be
26 developed by the board and shall be adopted by regulation.

27 (c) The board shall provide links to other Internet Web sites
28 that provide information on board certifications that meet the
29 requirements of subdivision ~~(b) of Section 851.~~ *(h) of Section 651.*
30 The board may also provide links to any other Internet Web sites
31 that provide information on the affiliations of licensed physicians
32 and surgeons. The board may provide links to other Internet Web
33 sites on the Internet that provide information on health care service
34 plans, health insurers, hospitals, or other facilities.

35 SEC. 3. Section 2233 of the Business and Professions Code is
36 amended to read:

37 2233. The board may, by stipulation or settlement with the
38 affected physician and surgeon, issue a public letter of reprimand
39 after it has conducted an investigation or inspection as provided
40 in this article, rather than filing or prosecuting a formal accusation.

1 The public letter of reprimand may, at the discretion of the board,
2 include a requirement for specified training or education. The
3 affected physician and surgeon shall indicate agreement or
4 nonagreement in writing within 30 days of formal notification by
5 the board of its intention to issue the letter. The board, at its option,
6 may extend the response time. Use of a public reprimand shall be
7 limited to minor violations and shall be issued under guidelines
8 established by regulations of the board.

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