

AMENDED IN ASSEMBLY MARCH 26, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 245

Introduced by Assembly Member Ma

February 10, 2009

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

LEGISLATIVE COUNSEL'S DIGEST

AB 245, as amended, Ma. Physicians and surgeons.

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 regarding licensed physicians and surgeons, *including, but not limited to, felony convictions, certain misdemeanor convictions, and whether or not the licensees are in good standing. Existing law requires that certain information remain posted for 10 years and prohibits the removal of certain other information.*

This bill would require the board to verify the information posted pursuant to those provisions, as specified, and would require the board to immediately remove information discovered to be false and to remove expunged misdemeanor or felony convictions within a specified period of time. The bill would also require the board to ensure that the biographical information posted on its Internet Web site regarding licensees is accurate. The bill would require the board to establish a process for addressing complaints from licensees regarding the posting of inappropriate information and would make the board liable for damages incurred by a licensee as a result of the board's failure to comply with these requirements.

~~This bill would make technical, nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ 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 amended to read:
3 2027. (a) The board shall post on the Internet the following
4 information in its possession, custody, or control regarding licensed
5 physicians and surgeons:
6 (1) With regard to the status of the license, whether or not the
7 licensee is in good standing, subject to a temporary restraining
8 order (TRO), subject to an interim suspension order (ISO), or
9 subject to any of the enforcement actions set forth in Section 803.1.
10 (2) With regard to prior discipline, whether or not the licensee
11 has been subject to discipline by the board or by the board of
12 another state or jurisdiction, as described in Section 803.1.
13 (3) Any felony convictions reported to the board after January
14 3, 1991.
15 (4) All current accusations filed by the Attorney General,
16 including those accusations that are on appeal. For purposes of
17 this paragraph, “current accusation” shall mean an accusation that
18 has not been dismissed, withdrawn, or settled, and has not been
19 finally decided upon by an administrative law judge and the board
20 unless an appeal of that decision is pending.
21 (5) Any malpractice judgment or arbitration award reported to
22 the board after January 1, 1993.
23 (6) Any hospital disciplinary actions that resulted in the
24 termination or revocation of a licensee’s hospital staff privileges
25 for a medical disciplinary cause or reason.
26 (7) Any misdemeanor conviction that results in a disciplinary
27 action or an accusation that is not subsequently withdrawn or
28 dismissed.
29 (8) Appropriate disclaimers and explanatory statements to
30 accompany the above information, including an explanation of
31 what types of information are not disclosed. These disclaimers and
32 statements shall be developed by the board and shall be adopted
33 by regulation.

1 (9) Any information required to be disclosed pursuant to Section
2 803.1.

3 (b) (1) From January 1, 2003, the information described in
4 paragraphs (1) (other than whether or not the licensee is in good
5 standing), (2), (4), (5), (7), and (9) of subdivision (a) shall remain
6 posted for a period of 10 years from the date the board obtains
7 possession, custody, or control of the information, and after the
8 end of that period shall be removed from being posted on the
9 board's Internet Web site. Information in the possession, custody,
10 or control of the board prior to January 1, 2003, shall be posted
11 for a period of 10 years from January 1, 2003. Settlement
12 information shall be posted as described in paragraph (2) of
13 subdivision (b) of Section 803.1.

14 (2) The information described in paragraphs (3) and (6) of
15 subdivision (a) shall not be removed from being posted on the
16 board's Internet Web site. Notwithstanding the provisions of this
17 paragraph, if a licensee's hospital staff privileges are restored and
18 the licensee notifies the board of the restoration, the information
19 pertaining to the termination or revocation of those privileges, as
20 described in paragraph (6) of subdivision (a), shall remain posted
21 for a period of 10 years from the restoration date of the privileges,
22 and at the end of that period shall be removed from being posted
23 on the board's Internet Web site.

24 (c) *Notwithstanding subdivision (b), the board shall remove an*
25 *expunged misdemeanor or felony conviction posted pursuant to*
26 *this section within 30 days of receiving notice of the expungement.*

27 (d) (1) *Notwithstanding subdivision (b), the board shall verify*
28 *the accuracy of information posted pursuant to this section as of*
29 *January 1, 2010, and shall, by April 1, 2010, remove any*
30 *information that the board is unable to verify.*

31 (2) *On and after January 1, 2010, the board shall not post*
32 *information pursuant to this section unless it first verifies the*
33 *accuracy of that information. The verification required by this*
34 *paragraph shall include, but not be limited to, an attempt to verify*
35 *the information with the licensed physician and surgeon who is*
36 *the subject of the information and his or her attorney.*

37 (3) *Notwithstanding subdivision (b), and except as provided in*
38 *paragraph (1), any information posted pursuant to this section*
39 *that the board subsequently discovers to be false shall be*
40 *immediately removed.*

1 (e) The board shall ensure that the biographical information
2 posted on its Internet Web site with respect to licensed physicians
3 and surgeons is accurate.

4 (f) The board shall establish a process to completely address
5 complaints from licensed physicians and surgeons regarding
6 inappropriate information posted by the board pursuant to this
7 section.

8 (g) The board shall be liable for damages incurred by a licensed
9 physician and surgeon as a result of the board's failure to meet
10 the requirements of subdivision (c), (d), or (e).

11 ~~(e)~~

12 (h) The board shall provide links to other Web sites on the
13 Internet that provide information on board certifications that meet
14 the requirements of subdivision (b) of Section 651. The board may
15 provide links to other Web sites on the Internet that provide
16 information on health care service plans, health insurers, hospitals,
17 or other facilities. The board may also provide links to any other
18 sites that would provide information on the affiliations of licensed
19 physicians and surgeons.