

## **OPSC Annual Membership Report 2017**

### **2017 Legislative Session**

The 2017 Legislative Session ended on September 16th with the Legislature's biggest accomplishment being California's status as a stronghold against President Trump. By the time lawmakers adjourned, a number of bills directly counter to the Trump Administration's policies were considered, including legislation shoring up protections for undocumented immigrants, aggressive climate change proposals, expanded safeguards for employees (particularly organized labor), and an attempt to implement a single-payer healthcare system. While Democrats hold supermajorities in both the Senate and the Assembly and were able to push some bills through to the Governor that would have stalled in previous years, not all of their proposals were successful, proving that dual supermajorities do not always translate to unlimited power.

On the final night of the 2017 legislative session, Senate pro Tem Kevin de Leon (D-Los Angeles) declared 2017 as "one of the most productive sessions in California history" stating that California lawmakers showed Washington how to "put the interests of our people ahead of our parties." Evidence of this was demonstrated by the passage of the "sanctuary state" bill, SB 54 by pro Tem de Leon, which limits the ability of local law enforcement to cooperate with federal immigration officials.

The Legislature was "productive" in 2017 in no small part because of Governor Brown. In April, the Legislature passed a \$52 billion transportation funding package spearheaded by the Governor, which included a controversial \$0.12/gallon gas tax. Lawmakers also passed significant environmental legislation pushed by Governor Brown extending the state's cap-and-trade program to 2030. Then, in the last week of session, legislators approved a package of bills aimed at addressing the state's affordable housing crisis including a fee on most real estate transactions and a housing bond, which was a known priority of the Governor's.

### **Key Developments in Healthcare**

#### ***Single Payer Legislation***

With uncertainty at the federal level regarding the repeal and replacement of the Affordable Care Act, Senator Ricardo Lara (D-Bell Gardens) authored a bill (SB 562) that sought to create a universal, or "single-payer" healthcare system in California. Although it cleared the Senate, SB 562 was stopped in the Assembly by Speaker Anthony Rendon (D-South Gate) who called it "woefully incomplete," namely because it lacked a funding mechanism. While SB 562 stalled in 2017, single-payer supporters filed a proposed initiative seeking to address some of the bill's shortfalls by establishing a healthcare trust fund to finance a single-payer system. The initiative is playing a role in discussions surrounding SB 562 in 2018.

In addition to the initiative, Speaker Rendon announced the formation of the Assembly Select Committee on Health Care Delivery Systems and Universal Coverage, chaired by Joaquin Arambula, MD (D-Fresno) and dentist Jim Wood (D-Healdsburg). The Committee held two hearings in 2017 which examined "single-payer" and "universal health care" models and discussed expansion of the Affordable Care Act (ACA) and "hybrid systems." The Committee is

continuing its hearings into 2018. It is likely that the Legislature discusses passing some type of “universal health care” model in the very near future. Three of the four Democratic Gubernatorial candidates came out in 2017 supporting “single-payer healthcare.”

With the failure of the single-payer healthcare bill to pass, much of the successful healthcare legislation focused on drug pricing and transparency. Assembly Health Committee Chairman Jim Wood’s (D-Healdsburg) AB 265 was signed by the Governor. It prohibits drug manufacturers from offering discounts for drugs if lower cost, generic drugs are available. In the Senate, SB 17 by Health Committee Chair Ed Hernandez (D-West Covina) also passed out of the Legislature and received the Governor’s approval on October 9<sup>th</sup>. It will impose new reporting requirements on health plans and manufacturers, and require manufacturers to release certain information pertaining to how drugs are priced.

### **OPSC 2017 Legislative Successes**

OPSC was heavily involved in multiple key issues in 2017 impacting osteopathic physicians and their patients. These include the following:

#### ***Osteopathic Medical Board Sunset Extension***

The Osteopathic Medical Board of California (OMBC), as well as the Medical Board of California, are set to sunset in 2018, so Senate Business, Professions and Economic Development Committee chairman Jerry Hill (D-San Mateo) introduced **SB 798** in 2017 to continue the OMBC another four years until 2022. It was signed by the Governor on October 13<sup>th</sup>. OPSC supported the sunset provisions in the bill, but was very troubled by certain provisions in the legislation that would have required physicians to notify patients when they are practicing on probationary status and made significant changes to the minimum graduate training requirements for DOs.

Ultimately, the troublesome provisions related to probation notification for DOs and MDs were removed from the bill. In addition, the effective date for new graduate training requirements for physicians was extended to 2020 to allow for further discussion on the new provisions.

In addition to the sunset extension, OPSC supported language in **SB 798** that streamlines the Board’s continuing medical education (CME) reporting requirements for DOs by making the CME cycle two years instead of three years. This will align CME reporting requirements with the licensure renewal cycle, which will prevent confusion among licensees and lessen OMBC workload by reducing CME reporting questions from licensees.

After **SB 798** was passed and signed by the Governor, OPSC communicated with Senator Hill, the Assembly Business & Professions Committee Chairman, Evan Low (D-Campbell), and the administration that concerns remain regarding the modification of minimum graduate training requirements for DOs. OPSC expressed its concern that any changes to postgraduate training requirements do not have a detrimental impact on osteopathic physicians’ ability to provide services to patients, especially those patients in rural and underserved areas.

#### ***OPSC Initiative – Medi-Cal Coverage of OMT***

OPSC advocated in 2017 to add Osteopathic Manipulative Treatment (OMT) as a covered Medi-Cal benefit. Currently, Medicare and most healthcare insurance companies compensate

physicians for providing OMT to patients. In California, DOs are not currently reimbursed by Medi-Cal Fee-For-Service for OMT. OPSC leadership and AOA staff met with the Department of Health Care Services (DHCS) and provided the Department with extensive information supporting Medi-Cal coverage of OMT. In addition, OPSC submitted a formal letter to DHCS Director Jennifer Kent requesting coverage of OMT services. We are hopeful the administration will support the addition of OMT to the Medi-Cal program.

### ***Scope of Practice Legislation***

Most bills modifying health care providers' scope of practice were defeated in 2017. OPSC opposed Assemblywoman Autumn Burke's (D-Inglewood) **AB 1612**, which was sponsored by the certified nurse midwives (CNMs) and sought to remove physician supervision of CNMs. After successful lobbying by OPSC and CMA, Burke held AB 1612 in Committee until 2018. **AB 1560** by Assemblywoman Laura Friedman (D-Glendale), and sponsored by the NPs, was also delayed until 2018. It would have modified the current 1:4 physician to NP supervision ratio by allowing one physician to supervise up to 12 of any combination of NPs, PAs or CNMs. OPSC maintains an oppose unless amended position on AB 1560.

### ***Opioid Legislation***

A number of bills seeking to address the opioid epidemic cleared the Legislature in 2017. OPSC supported **AB 1048** by Assemblyman & Dr. Joaquin Arambula (D-Fresno), which was sponsored by the California Medical Association and will authorize pharmacists to dispense partial fills of Schedule II drugs if requested by the patient or subscriber. AB 1048 was signed by the Governor on October 9th. Assembly Health Committee chair Jim Wood's **AB 715**, which would have created an opioid workgroup within the California Department of Public Health (CDPH), was unfortunately vetoed by the Governor. The workgroup, which would have been comprised of various health professionals and others, was tasked with reviewing existing prescription guidelines and develop legislative recommendations on best practices for prescribing opioid pain relievers. OPSC was successful in having AB 715 include an osteopathic physician on the workgroup. Assembly Member Wood has pledged to continue to push for legislation that will mitigate the opioid abuse problem in California. Two more controversial opioid bills were tabled for the year, including Senator Anthony Portantino's (D-La Canada Flintridge) **SB 419**. As initially drafted, the bill would have prohibited anyone under 21 from being prescribed oxycodone. Also **AB 1512** - authored by Assembly Member Kevin McCarty - would have imposed a tax on all opioids distributed in California.

### ***CURES Legislation***

In response to new requirements for physicians to check CURES for purposes of monitoring and controlling excessive controlled substance prescriptions, OPSC supported **AB 40** (Santiago) to provide an opportunity for physicians to utilize health information technology and online options to query CURES and track patient prescribing information helping to streamline the utilization of CURES.

### **2017 OPSC CA State Budget Successes**

The Governor signed another on-time budget on June 27, 2017. Governor Brown's approval of the spending plan closed out several months of budget hearings and negotiations at the Capitol. Governor Brown said the deal was "balanced and progressive" and Speaker Rendon said it is "a budget that does things for people, not to people" noting "significant reforms" at the Board of

Equalization and the University of California after scathing audits were released earlier in the year. The Budget allocates more money to the Rainy Day Fund, includes an expansion to California's Earned Income Tax Credit program, increases K-14 funding, provides supplemental payments to reduce pension liabilities, prioritizes infrastructure, and increases Medi-Cal funding through Proposition 56 (tobacco tax) revenues.

***Proposition 56 (tobacco tax) revenues secured for increased Medi-Cal physician reimbursements***

In 2016, voters passed Prop 56, which instituted a \$2/pack tax on cigarettes and other tobacco products. Proponents of the initiative, including OPSC, intended the projected \$1 billion in annual revenue from the tax to shore up the Medi-Cal program, including increasing provider reimbursement rates and investing in other programs cut in leaner years. Initially, however, Governor Brown proposed to use the revenue to help fill a hole in the state budget caused by a Medi-Cal accounting error. The Legislature instead pushed the Governor to allocate much of the funding toward Medi-Cal reimbursement rates for certain Medi-Cal providers. The physician community was successful in their lobbying efforts, securing a majority of the \$546 million in supplemental funding to include increased reimbursement rates for physicians and dentists and some funding for HIV/AIDS treatment, women's health programs, and the developmentally disabled. OPSC supported this effort and is very pleased the budget will include new Medi-Cal funds for physicians.

***Healthcare Workforce Funding***

The budget maintains \$100 million in funding for primary care residencies over a three-year period under the Song-Brown program. Governor Brown included this funding in the 2016-17 enacted state budget but, in early 2017, proposed to eliminate it. The Legislature rejected his proposal and included the funding in the 2017/18 state budget appropriating \$33 million/year over three years to primary care residencies in underserved parts of the state. OPSC strongly supported the Legislature's efforts.

***2017 Bills of Interest to OPSC***

A number of key bills of interest to OPSC either moved successfully through the Legislative process or were held. These bills are as follows:

**[AB 40 \(Santiago D\) CURES database: health information technology system.](#)**

**Status:** Signed by the Governor, October 9th

**Summary:**

Requires the Department of Justice to make the electronic history of controlled substances dispensed to an individual under a health care practitioner's or pharmacist's care, based on data contained in the CURES database, available to a practitioner or pharmacist. The bill requires that the system meet applicable patient privacy and information security requirements of state and federal law.

**OPSC Position:** Neutral as Amended

**Note:** *OPSC worked with the sponsors to amend the bill to assure confidentiality of patient information and the ability for physicians to contract with multiple vendors*

**[AB 207 \(Arambula D\) California State University: doctor of medicine degrees.](#)**

**Status:** DEAD

**Summary:**

Would have authorized California State University, Fresno, to award the doctor of medicine degree.

**OPSC Position:** Watch

**Note:** *OPSC has met with Dr. Arambula to express an interest in working with him on increasing access to physician resident training programs.*

**[AB 443 \(Salas D\)](#) Optometry: scope of practice.**

**Status:** Signed by the Governor, October 7<sup>th</sup>

**Summary:**

This bill would revise the scope of the practice of optometry by, among other things, providing that the practice of optometry includes the provision of habilitative optometric services.

**OPSC Position:** Watch

**[AB 505 \(Caballero D\)](#) Physicians and surgeons: probation.**

**Status:** 2-YEAR BILL

**Summary:**

This bill would prohibit the Medical Board of California or the Osteopathic Medical Board of California from entering into any stipulation for disciplinary action if the stipulation places a licensee on probation and the operative accusation includes specified acts.

**OPSC Position:** Support

**[AB 715 \(Wood D\)](#) Workgroup review of opioid pain reliever use and abuse.**

**Status:** Vetoed by the Governor, October 9<sup>th</sup>

**Summary:**

This bill would have required the State Department of Public Health to convene a workgroup, comprised of members selected by the department, to review existing prescription guidelines and develop a recommended statewide guideline addressing best practices for prescribing opioid pain relievers.

**Governor's Message:**

To the Members of the California State Assembly: I am returning Assembly Bill 715 without my signature. This bill requires the Department of Public Health to convene a workgroup to develop a statewide guideline for prescribing opioids for acute, short term pain. Opioid misuse and addiction is a national epidemic that has been devastating for many California communities. Since 2014, the Department of Public Health has lead the Prescription Opioid Misuse and Overdose Prevention Workgroup which is comprised of state and local agencies as well as medical and patient organizations committed to reducing opioid overdose rates in California. Furthermore, both the California Medical Board and the federal Centers for Disease Control have published updated guidelines for prescribing controlled substances for pain including opioids. For these reasons, this bill is unnecessary. Sincerely, Edmund G. Brown Jr.

**OPSC Position:** Support as Amended

**Note:** *OPSC worked with Assm. Wood to amend AB 715 to include an osteopathic physician on the prescribing guidelines workgroup.*

**[AB 1048 \(Arambula D\)](#) Health care: pain management and Schedule II drug prescriptions.**

**Status:** Signed by the Governor, October 9<sup>th</sup>

**Summary:**

Beginning July 1, 2018, authorizes a pharmacist to dispense a Schedule II controlled substance as a partial fill if requested by the patient or the prescriber. The bill requires the pharmacy to retain the original prescription, with a notation of how much of the prescription has been filled, the date and amount of each partial fill, and the initials of the pharmacist dispensing each partial fill, until the prescription has been fully dispensed.

**OPSC Position:** Support

**[AB 1153](#) (Low D) Podiatry.**

**Status:** Signed by the Governor, October 14<sup>th</sup>

**Summary:**

Authorizes a doctor of podiatric medicine with training or experience in wound care to treat ulcers resulting from local and systemic etiologies on the leg no further proximal than the tibial tubercle.

**OPSC Position:** Watch

**[AB 1560](#) (Friedman D) Nurse practitioners: certified-nurse midwives: physician assistants: physician and surgeon supervision.**

**Status:** Inactive File

**Summary:**

This bill would prohibit a physician and surgeon from supervising more than 12 nurse practitioners, certified-nurse midwives, and physician assistants at any one time.

**OPSC Position:** Oppose Unless Amended

**[AB 1612](#) (Burke D) Nursing: certified nurse-midwives: supervision.**

**Status:** 2-YEAR BILL

**Summary:**

Would repeal the requirement that a certified nurse-midwife be under the supervision of a licensed physician and surgeon.

**OPSC Position:** Oppose

**[SB 457](#) (Bates R) Out-of-Hospital Childbirths: physicians and surgeons: licensed midwives: certified nurse-midwives.**

**Status:** DEAD

**Summary:**

Would have required that a licensed physician and surgeon, a licensed midwife, and a certified nurse-midwife only attend cases of pregnancy and out-of-hospital childbirth, as defined, when specified conditions are met.

**OPSC Position:** Watch

**[SB 554](#) (Stone R) Nurse practitioners: physician assistants: buprenorphine.**

**Status:** Signed by Governor, September 11<sup>th</sup>

**Summary:**

Will allow a nurse practitioner to furnish or order buprenorphine when done in compliance with the provisions of the Comprehensive Addiction Recovery Act.

**OPSC Position:** Watch

**[SB 790](#) ([McGuire D](#)) Health care providers: gifts and benefits.**

**Status:** Inactive File

**Summary:**

Would prohibit a manufacturer of a prescribed product from offering a gift to a health care provider. The bill would further prohibit a manufacturer of a prescribed product from providing payment to a health care provider in connection with the provider's participation in research

**Position:** Oppose Unless Amended

**[SB 798](#) ([Hill D](#)) Healing arts: boards.**

**Status:** Signed by the Governor, October 13<sup>th</sup>

**Summary:**

This bill extends the sunset to 2022 on the Osteopathic Medical Board of California and aligns continuing medical education requirements with the licensure renewal cycles. The bill would also require specified physicians and surgeons, podiatrists, chiropractors, and naturopathic doctors to notify patients when they are practicing on probationary status.

**Position:** Support with Concerns

**Note:** *OPSC has expressed continuing concerns with provisions in SB 798 that modify physician licensure requirements requiring additional years of residency training prior to obtaining a physician license.*